

NOT SPECIFIED /OTHER

SOLICITATION, OFFER AND AWARD		1 THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)	RATING	PAGE OF PAGES 1 248	
2. CONTRACT NUMBER DE-FE0004000		3 SOLICITATION NUMBER	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	5 DATE ISSUED	6 REQUISITION/PURCHASE NUMBER 10FE000090
7 ISSUED BY U.S. DOE/NETL Morgantown Campus 3610 Collins Ferry Road PO Box 880 Morgantown WV 26507-0880		CODE 02605	8 ADDRESS OFFER TO (if other than item 7)		

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9 Sealed offers in original and _____ copies for furnishing the supplies or services in the Schedule will be received at the place specified in item 8 or if hand carried in the depository located in _____ until _____ local time _____ (Date)

CAUTION: LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME Donald E. Hafer	B. TELEPHONE (NO COLLECT CALLS)			C. E-MAIL ADDRESS donald.hafer@netl.doe.gov
		AREA CODE 304	NUMBER 285-1361	EXT	

11. TABLE OF CONTENTS

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
<input checked="" type="checkbox"/>	A	SOLICITATION/CONTRACT FORM	1.0	<input checked="" type="checkbox"/>	I	CONTRACT CLAUSES	52.
<input checked="" type="checkbox"/>	B	SUPPLIES OR SERVICES AND PRICES/COSTS	8.0	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
<input checked="" type="checkbox"/>	C	DESCRIPTION/SPECS./WORK STATEMENT	20.	<input checked="" type="checkbox"/>	J	LIST OF ATTACHMENTS	198
<input checked="" type="checkbox"/>	D	PACKAGING AND MARKING	21.	PART IV - REPRESENTATIONS AND INSTRUCTIONS			
<input checked="" type="checkbox"/>	E	INSPECTION AND ACCEPTANCE	22.	<input type="checkbox"/>	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
<input checked="" type="checkbox"/>	F	DELIVERIES OR PERFORMANCE	23.	<input type="checkbox"/>	L	INSTRS., CONDS., AND NOTICES TO OFFERORS	
<input checked="" type="checkbox"/>	G	CONTRACT ADMINISTRATION DATA	25.	<input type="checkbox"/>	M	EVALUATION FACTORS FOR AWARD	
<input checked="" type="checkbox"/>	H	SPECIAL CONTRACT REQUIREMENTS	30.				

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12 In compliance with the above the undersigned agrees if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I Clause No. 52.232 (b))	10 CALENDAR DAYS (%) NET 30	20 CALENDAR DAYS (%)	30 CALENDAR DAYS (%)	CALENDAR DAYS (%)
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14 ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR WASHINGTON GROUP INTERNATIONAL, INC. (OHIO) ATTN: ANNE VEIGEL WASHINGTON DIVISION P.O. 73 BOISE ID 837290001	CODE 007900517	FACILITY	16 NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)
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15B. TELEPHONE NUMBER AREA CODE NUMBER EXT	15C CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17 SIGNATURE	18 OFFER DATE
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AWARD (To be completed by government)

19 ACCEPTED AS TO ITEMS NUMBERED All	20. AMOUNT \$320,918,629.00	21. ACCOUNTING AND APPROPRIATION See schedule
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22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION. <input type="checkbox"/> 10 U.S.C. 2304 (c) () <input type="checkbox"/> 41 U.S.C. 253 (c) ()	23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified) ITEM G2
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24. ADMINISTERED BY (if other than item 7) See Schedule G	CODE 02605	25. PAYMENT WILL BE MADE BY See Schedule G	CODE 00509
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26. NAME OF CONTRACTING OFFICER (Type or print) Raymond R. Jarr	27. UNITED STATES OF AMERICA (Signature of Contracting Officer)	28. AWARD DATE 10.9.09
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IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice. AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is unusable

STANDARD FORM 33 (Rev. 9-97) Prescribed by GSA - FAR (48 CFR) 63.214(c)

CONTINUATION SHEET	REFERENCE NO OF DOCUMENT BEING CONTINUED	PAGE	OF
	DE-EE0004000	2	248

NAME OF OFFEROR OR CONTRACTOR
 WASHINGTON GROUP INTERNATIONAL, INC. (OHIO CORPORATION)

ITEM NO (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Obligation total \$100,000 See Page 2 for accounting details. Subj to Retent: NO Delivery Location Code: 02605. U.S. DOE/NEIL Morgantown Campus 3610 Collins Ferry Road PO Box 880 Morgantown WV 26507-0880 FOB: Destination Period of Performance: 11/16/2009 to 11/14/2011				

DE-FE0004000 – RESEARCH AND ENGINEERING SERVICES FOR THE NATIONAL ENERGY
TECHNOLOGY LABORATORY

TABLE OF CONTENTS

PART I <u>SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS</u>	8
B.1 <u>SERVICES BEING ACQUIRED – RESEARCH AND ENGINEERING</u>	8
B.2 <u>OPTION PERIOD 1</u>	11
B.3 <u>OPTION PERIOD 2</u>	13
B.4 <u>ESTIMATED TOTAL COST OF CONTRACT</u>	16
B.5 <u>52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT. (MAR 2000)</u>	16
B.6 <u>OPTION TO EXTEND SERVICES</u>	16
B.7 <u>DISTRIBUTION OF PERFORMANCE AWARD FEE</u>	17
B.8 <u>LIMITATION OF FUNDS -- COST PLUS AWARD FEE</u>	17
B.9 <u>ANNUAL INDIRECT RATE SUBMISSIONS</u>	17
PART I <u>SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT</u>	20
C.1 <u>STATEMENT OF WORK</u>	20
C.2 <u>REPORTS</u>	20
PART I <u>SECTION D - PACKAGING AND MARKING</u>	21
D.1 <u>PACKAGING</u>	21
D.2 <u>MARKING</u>	21
PART I <u>SECTION E - INSPECTION AND ACCEPTANCE</u>	22
E.1 <u>INSPECTION</u>	22
E.2 <u>ACCEPTANCE</u>	22
E.3 <u>52.246-5 INSPECTION OF SERVICES - COST-REIMBURSEMENT. (APR 1984)</u>	22
PART I <u>SECTION F - DELIVERIES OR PERFORMANCE</u>	23
F.1 <u>PERIOD OF PERFORMANCE (BASE CONTRACT WITH OPTION(S))</u>	23
F.2 <u>PRINCIPAL PLACE OF PERFORMANCE</u>	23
F.3 <u>52.242-15 STOP-WORK ORDER. (AUG 1989) ALTERNATE I (APR 1984)</u>	23
PART I <u>SECTION G - CONTRACT ADMINISTRATION DATA</u>	25
G.1 <u>CORRESPONDENCE PROCEDURES</u>	25
G.2 <u>SUBMISSION OF VOUCHERS/INVOICES</u>	25
G.3 <u>PAYMENT OF PERFORMANCE AWARD FEE</u>	27
G.4 <u>NOTICE OF INVOICE PROCESSING BY SUPPORT CONTRACTOR</u>	27
G.5 <u>ACCOUNTABILITY OF COSTS/SEGREGATION OF CLINS</u>	28
G.6 <u>ANNUAL WORK OPERATING PLAN</u>	28
PART I <u>SECTION II - SPECIAL CONTRACT REQUIREMENTS</u>	30
H.1 <u>CONSECUTIVE NUMBERING</u>	30
H.2 <u>TECHNICAL DIRECTION</u>	30
H.3 <u>MODIFICATION AUTHORITY</u>	31
H.4 <u>GOVERNMENT PROPERTY AND DATA</u>	31
H.5 <u>USE OF GOVERNMENT-OWNED FACILITIES</u>	32
H.6 <u>MOVEMENT OF GOVERNMENT PROPERTY OFF-SITE -- NETL</u>	33
H.7 <u>WORK BREAKDOWN STRUCTURE</u>	33
H.8 <u>KEY PERSONNEL/PROGRAM MANAGER</u>	33
H.9 <u>AWARD FEE DEDUCTION BASED ON FAILURE TO FULFILL COMMITMENT INDICATED BY CORPORATION OR THAT OF KEY PERSONNEL/KEY TECHNICAL STAFF</u>	34
H.10 <u>INCORPORATION OF CONTRACTOR'S PROPOSAL</u>	34
H.11 <u>PRIOR APPROVAL REQUIREMENTS FOR PLACEMENT OF SUBCONTRACTS AND/OR</u>	

<u>CONSULTANTS</u>	35
H.12 <u>SUBCONTRACTOR FACILITIES CAPITAL COST OF MONEY</u>	36
H.13 <u>INDIRECT COSTS</u>	36
H.14 <u>LIMITATION OF INDIRECT COST</u>	36
H.15 <u>PERFORMANCE EVALUATION PLAN (PEP)</u>	37
H.16 <u>PERFORMANCE BASED AWARD FEE</u>	37
H.17 <u>CONFIDENTIALITY OF INFORMATION</u>	39
H.18 <u>CONTRACTOR COMMUNICATION RELEASES</u>	39
H.19 <u>REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF THE OFFEROR</u>	39
H.20 <u>CONTRACTOR INTERFACE WITH OTHER CONTRACTORS AND/OR GOVERNMENT EMPLOYEES</u>	39
H.21 <u>INSURANCE -- MINIMUM REQUIREMENTS</u>	39
H.22 <u>POSITION QUALIFICATIONS</u>	40
H.23 <u>COMMUNITY COMMITMENT</u>	40
H.24 <u>CONSERVATION OF UTILITIES</u>	40
H.25 <u>GOVERNMENT PROVIDED SERVICES</u>	40
H.26 <u>SECURITY AND PERSONNEL REQUIREMENTS</u>	41
H.27 <u>ACCESS TO DOE - OWNED OR LEASED FACILITIES</u>	43
H.28 <u>PERMITS AND LICENSES</u>	44
H.29 <u>NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) - PRIOR APPROVALS</u>	44
H.30 <u>ENVIRONMENTAL, SAFETY, AND HEALTH MANAGEMENT SYSTEM POLICY AND ENVIRONMENTAL ASPECT AND OBJECTIVE/TARGET CONSIDERATIONS</u>	44
H.31 <u>ENVIRONMENTAL SAFETY, AND HEALTH ON-SITE SERVICE CONTRACTS</u>	44
H.32 <u>QUALITY ASSURANCE/QUALITY CONTROL</u>	46
H.33 <u>SAFETY & HEALTH AND ENVIRONMENTAL PROTECTION</u>	46
H.34 <u>HAZARDOUS WASTES MANIFESTS AND LABELS</u>	46
H.35 <u>INDEMNITY -- ENVIRONMENTAL, HEALTH AND SAFETY VIOLATIONS</u>	47
H.36 <u>COMPLIANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL REQUIREMENTS</u>	47
H.37 <u>LOBBYING RESTRICTION</u>	47
H.38 <u>TRAVEL AND PER DIEM COSTS</u>	47
H.39 <u>COMPLIANCE WITH INTERNET VERSION 6 (IPv6) IN ACQUIRING INFORMATION TECHNOLOGY</u>	47
H.40 <u>AUTOMATIC DATA PROCESSING EQUIPMENT (ADPE) USAGE</u>	48
H.41 <u>AUTOMATIC DATA PROCESSING EQUIPMENT (ADPE) LEASING</u>	48
H.42 <u>LIMITATION ON SOFTWARE</u>	48
H.43 <u>CRADA SUBJECT INVENTIONS</u>	48
H.44 <u>OVERTIME APPROVALS</u>	48
H.45 <u>BERYLLIUM CONSIDERATIONS FOR WORK CONDUCTED AT NETL-ALBANY</u>	48
H.46 <u>FOCUSED STANDARDS LIST</u>	49
H.47 <u>SPECIAL PROVISIONS RELATED TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (APR 2009)</u>	49
<u>PART II SECTION I - CONTRACT CLAUSES</u>	52
I.1 <u>52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)</u>	52
I.2 <u>52.202-1 DEFINITIONS, (JUL 2004)</u>	52
I.3 <u>952.202-1 DEFINITIONS,</u>	52
I.4 <u>52.203-3 GRATUITIES, (APR 1984)</u>	52
I.5 <u>52.203-5 COVENANT AGAINST CONTINGENT FEES, (APR 1984)</u>	53
I.6 <u>52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT, (SEP 2006)</u>	53
I.7 <u>52.203-7 ANTI-KICKBACK PROCEDURES, (JUL 1995)</u>	54
I.8 <u>52.203-8 CANCELLATION, RECISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY, (JAN 1997)</u>	55
I.9 <u>52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY, (JAN 1997)</u>	55
I.10 <u>52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS, (SEP 2007)</u>	56

I.11	<u>52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT, (DEC 2008)</u>	60
I.12	<u>952.203-70 WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES, (DEC 2000)</u>	63
I.13	<u>952.204-2 SECURITY, (MAY 2002)</u>	63
I.14	<u>52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER, (AUG 2000)</u>	65
I.15	<u>52.204-7 CENTRAL CONTRACTOR REGISTRATION, (APR 2008)</u>	66
I.16	<u>52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL, (SEP 2007)</u>	68
I.17	<u>952.204-70 CLASSIFICATION/DECLASSIFICATION, (SEP 1997)</u>	68
I.18	<u>952.204-73 FACILITY CLEARANCE, (MAY 2002)</u>	69
I.19	<u>952.204-76 CONDITIONAL PAYMENT OF FEE OR PROFIT--SAFEGUARDING RESTRICTED DATA AND OTHER CLASSIFIED INFORMATION, (JAN 2004)</u>	71
I.20	<u>970.5223-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES, (DEC 2000)</u>	74
I.21	<u>52.208-9 CONTRACTOR USE OF MANDATORY SOURCES OF SUPPLY OR SERVICES, (OCT 2008)</u>	74
I.22	<u>952.208-70 PRINTING, (APR 1984)</u>	75
I.23	<u>52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT, (SEP 2006)</u>	75
I.24	<u>952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST, (JUN 1997)</u>	76
I.25	<u>52.215-2 AUDIT AND RECORDS - NEGOTIATION, (JUN 1999)</u>	77
I.26	<u>52.215-8 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT, (OCT 1997)</u>	79
I.27	<u>52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA, (OCT 1997)</u>	79
I.28	<u>52.215-12 SUBCONTRACTOR COST OR PRICING DATA, (OCT 1997)</u>	80
I.29	<u>52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS, (OCT 2004)</u>	81
I.30	<u>RESERVED</u>	81
I.31	<u>52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS, (JUL 2005)</u>	81
I.32	<u>52.215-19 NOTIFICATION OF OWNERSHIP CHANGES, (OCT 1997)</u>	81
I.33	<u>52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS, (OCT 1997)</u>	82
I.34	<u>52.216-7 ALLOWABLE COST AND PAYMENT, (DEC 2002)</u>	83
I.35	<u>952.216-7 ALLOWABLE COST AND PAYMENT</u>	86
I.36	<u>52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS, (MAY 2004)</u>	86
I.37	<u>52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN, (APR 2008)</u>	88
I.38	<u>52.219-16 LIQUIDATED DAMAGES - SUBCONTRACTING PLAN, (JAN 1999)</u>	96
I.39	<u>952.219-70 DOE MENTOR-PROTEGE PROGRAM, (MAY 2000)</u>	96
I.40	<u>52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES, (FEB 1997)</u>	96
I.41	<u>52.222-2 PAYMENT FOR OVERTIME PREMIUMS, (JUL 1990)</u>	97
I.42	<u>52.222-3 CONVICT LABOR, (JUN 2003)</u>	97
I.43	<u>52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION, (JUL 2005)</u>	98
I.44	<u>52.222-21 PROHIBITION OF SEGREGATED FACILITIES, (FEB 1999)</u>	99
I.45	<u>52.222-26 EQUAL OPPORTUNITY, (MAR 2007)</u>	99
I.46	<u>52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS, (SEP 2006)</u>	101
I.47	<u>52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES, (JUN 1998)</u>	104
I.48	<u>52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS, (SEP 2006)</u>	105
I.49	<u>52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES, (DEC 2004)</u>	106
I.50	<u>52.222-41 SERVICE CONTRACT ACT OF 1965, (NOV 2007)</u>	108
I.51	<u>52.222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS), (NOV 2006)</u>	113
I.52	<u>52.222-50 COMBATING TRAFFICKING IN PERSONS, (AUG 2007)</u>	114
I.53	<u>52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA, (JAN 1997) - ALTERNATE I (JUL 1995)</u>	116

I.54	<u>52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION. (AUG 2003)</u>	117
I.55	<u>52.223-6 DRUG-FREE WORKPLACE. (MAY 2001)</u>	118
I.56	<u>52.223-10 WASTE REDUCTION PROGRAM. (AUG 2000)</u>	119
I.57	<u>52.223-14 TOXIC CHEMICAL RELEASE REPORTING. (AUG 2003)</u>	120
I.58	<u>52.223-15 ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS. (DEC 2007)</u>	121
I.59	<u>52.224-1 PRIVACY ACT NOTIFICATION. (APR 1984)</u>	122
I.60	<u>52.224-2 PRIVACY ACT. (APR 1984)</u>	122
I.61	<u>952.224-70 PAPERWORK REDUCTION ACT. (APR 1984)</u>	122
I.62	<u>52.225-5 TRADE AGREEMENTS. (NOV 2007) (DOE DEVIATION) (FEB 2008)</u>	123
I.63	<u>52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES. (JUN 2008)</u>	125
I.64	<u>952.226-71 UTILIZATION OF ENERGY POLICY ACT TARGET ENTITIES. (JUN 1996)</u>	125
I.65	<u>952.226-72 ENERGY POLICY ACT SUBCONTRACTING GOALS AND REPORTING REQUIREMENTS. (JUN 1996)</u>	126
I.66	<u>52.227-1 AUTHORIZATION AND CONSENT. (DEC 2007) -- ALTERNATE I (APR 1984)</u>	127
I.67	<u>970.5227-1 RIGHTS IN DATA--FACILITIES (DEC 2000)</u>	127
I.68	<u>52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT. (DEC 2007)</u>	132
I.69	<u>970.5227-7 ROYALTY INFORMATION (DEC 2000)</u>	132
I.70	<u>970.5227-8 REFUND OF ROYALTIES (AUG 2002)</u>	133
I.71	<u>952.227-11 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM). (FEB 1995)</u>	134
I.72	<u>952.227-13 PATENT RIGHTS-ACQUISITION BY THE GOVERNMENT. (SEP 1997)</u>	138
I.73	<u>52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL). (JUN 1987)</u>	146
I.74	<u>952.227-84 NOTICE OF RIGHT TO REQUEST PATENT WAIVER (FEB 1998)</u>	146
I.75	<u>52.228-5 INSURANCE - WORK ON A GOVERNMENT INSTALLATION. (JAN 1997)</u>	146
I.76	<u>52.228-7 INSURANCE - LIABILITY TO THIRD PERSONS. (MAR 1996)</u>	147
I.77	<u>52.229-3 FEDERAL, STATE, AND LOCAL TAXES. (APR 2003)</u>	148
I.78	<u>52.230-2 COST ACCOUNTING STANDARDS. (OCT 2008)</u>	149
I.79	<u>52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES. (OCT 2008)</u>	151
I.80	<u>52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS. (MAR 2008)</u>	152
I.81	<u>52.232-1 PAYMENTS. (APR 1984)</u>	158
I.82	<u>52.232-9 LIMITATION ON WITHHOLDING OF PAYMENTS. (APR 1984)</u>	159
I.83	<u>52.232-11 EXTRAS. (APR 1984)</u>	159
I.84	<u>52.232-17 INTEREST. (OCT 2008)</u>	159
I.85	<u>52.232-18 AVAILABILITY OF FUNDS. (APR 1984)</u>	160
I.86	<u>52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR. (APR 1984)</u>	160
I.87	<u>52.232-20 LIMITATION OF COST. (APR 1984)</u>	160
I.88	<u>52.232-22 LIMITATION OF FUNDS. (APR 1984)</u>	161
I.89	<u>52.232-23 ASSIGNMENT OF CLAIMS. (JAN 1986)</u>	163
I.90	<u>52.232-25 PROMPT PAYMENT. (OCT 2008) ALTERNATE I (FEB 2002)</u>	163
I.91	<u>52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION. (OCT 2003)</u>	167
I.92	<u>52.233-1 DISPUTES. (JUL 2002)</u>	169
I.93	<u>52.233-3 PROTEST AFTER AWARD. (AUG 1996)</u>	170
I.94	<u>52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM. (OCT 2004)</u>	171
I.95	<u>952.235-70 KEY PERSONNEL. (APR 1994)</u>	171
I.96	<u>52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION. (APR 1984)</u>	171
I.97	<u>52.237-3 CONTINUITY OF SERVICES. (JAN 1991)</u>	171
I.98	<u>52.242-1 NOTICE OF INTENT TO DISALLOW COSTS. (APR 1984)</u>	172
I.99	<u>52.242-3 PENALTIES FOR UNALLOWABLE COSTS. (MAY 2001)</u>	172
I.100	<u>52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS. (JAN 1997)</u>	173
I.101	<u>52.242-13 BANKRUPTCY. (JUL 1995)</u>	174
I.102	<u>52.243-2 CHANGES - COST-REIMBURSEMENT. (AUG 1987)</u>	174
I.103	<u>52.244-2 SUBCONTRACTS. (JUN 2007)</u>	174

I.104	<u>52.244-5 COMPETITION IN SUBCONTRACTING. (DEC 1996)</u>	177
I.105	<u>52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS. (MAR 2007)</u>	177
I.106	<u>52.245-1 GOVERNMENT PROPERTY. (JUN 2007)</u>	177
I.107	<u>52.246-25 LIMITATION OF LIABILITY - SERVICES. (FEB 1997)</u>	189
I.108	<u>52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS. (JUN 2003)</u>	189
I.109	<u>52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS. (FEB 2006)</u>	190
I.110	<u>952.247-70 FOREIGN TRAVEL. (DEC 2000)</u>	192
I.111	<u>52.249-6 TERMINATION (COST-REIMBURSEMENT). (MAY 2004)</u>	192
I.112	<u>52.249-14 EXCUSABLE DELAYS. (APR 1984)</u>	195
I.113	<u>52.251-1 GOVERNMENT SUPPLY SOURCES. (APR 1984)</u>	196
I.114	<u>952.251-70 CONTRACTOR EMPLOYEE TRAVEL DISCOUNTS. (DEC 2000)</u>	196
I.115	<u>52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES. (APR 1984)</u>	197
I.116	<u>52.253-1 COMPUTER GENERATED FORMS. (JAN 1991)</u>	197
<u>PART III SECTION J - LIST OF ATTACHMENTS</u>		198
J.1	<u>LIST OF ATTACHMENTS</u>	198
J.2	<u>ATTACHMENT A-1 – NETL INTRODUCTION</u>	199
J.3	<u>ATTACHMENT A-2 - STATEMENT OF WORK</u>	202
J.4	<u>ATTACHMENT B - REPORTING REQUIREMENTS</u>	214
J.5	<u>ATTACHMENT B-1 COST MANAGEMENT/INVOICE DETAIL/SUMMARY STAFFING REPORT FORMS</u>	229
J.6	<u>ATTACHMENT B-2 CONTRACT ORGANIZATION CHART</u>	230
J.7	<u>ATTACHMENT B-3 SUBCONTRACT STATUS REPORT</u>	231
J.8	<u>ATTACHMENT C - PERFORMANCE EVALUATION PLAN</u>	232
J.9	<u>ATTACHMENT D - POSITION QUALIFICATIONS</u>	242
J.10	<u>ATTACHMENT E – WAGE DETERMINATIONS/COLLECTIVE BARGAINING AGREEMENTS</u>	247
J.11	<u>ATTACHMENT F -- SMALL BUSINESS SUBCONTRACTING PLAN</u>	248

PART I SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 SERVICES BEING ACQUIRED – RESEARCH AND ENGINEERING

- A. The Contractor shall furnish all personnel, facilities, equipment, material, supplies, and services (except as may be expressly set forth in this contract as furnished by the Government) and otherwise do all things necessary for, or incident to, the performance of the items of work as specified in the Statement of Work (SOW) set forth in Part III, Section J, Attachment A-2 for the (TERM) specified in Part I, Section F, and fulfill the other requirements of the contract including contract reporting set forth in Part III, Section J.
- B. The level of effort specified for the base and options periods is the present level of effort **estimated** for the performance of work set forth in Part III, Section J, Attachment A-2, Statement of Work. However, changes in programmatic requirements may cause a substantial increase or decrease in the number of Direct Productive Labor Hours (DPLH) identified for the Contract Line Item Numbers (CLIN) listed in Part I, Section B. This contract is to be available for the Government to obtain services for the contract period (TERM), even if the level of effort therefore and/or the estimated cost as originally specified is insufficient. The estimated level of effort, as may be approved by the Contracting Officer in accordance with this contract, is inclusive of all effort for the prime, subcontractor(s), consultant(s), or other such entities that provide labor under this contract.
- C. The Maximum Available Fee Pool for the performance of the work under this contract is set forth for each CLIN in Part I Section B. Award Fee will be determined and paid in accordance with the Distribution of Award Fee clause set forth in Part I Section B. There shall be no adjustment in the amount of the Contractor's fee by reason of differences between any estimate of cost for performance of the work under this contract and the actual cost for performance of that work; provided, however that
 - a. A material change of plus or minus ten percent in the level of effort specified for the CLIN may result in an equitable adjustment in the Maximum Available Fee Pool in accordance with the procedures provided for in the clause entitled "Changes" set forth in Part II Section I.
 - b. Subject to the certification of the Contracting Officer of the level of effort expended, the Maximum Available Fee Pool may be adjusted as specified in the Distribution of Award Fee clause set forth in Part I Section B.
- D. All work under this contract shall be performed under the general guidance and direction of the DOE Contracting Officer's Representative (COR) and Contracting Officer's Technical Representative (COTR) whose responsibilities are set forth in the clause Technical Direction in Part I Section H. Such guidance and direction shall not, however, effect any change in the Contract Schedule, Statement of Work, Contract Reporting Requirements, or other provisions of this contract. Such changes shall only be made by the expressed written direction of the Contracting Officer.
- E. The Statement of Work set forth in Part III, Section J, Attachment A-2, defines the scope of work that can be completed under any and all of the CLINs listed below.

CLIN 1 – NETL ORD General Infrastructure and Logistics Support. This CLIN supports the management and implementation of general NETL Office of Research and Development (ORD) infrastructure and logistics activities not attributable to a specific research project effort. It includes the maintenance, operation and upkeep of ancillary facilities, including but not limited to machine shops, calibration /instrumentation shops, welding facilities, gas compression facilities, gas distribution networks, gas cylinder and bulk gas support, electrical, analytical services, control system, data collection infrastructure support, R&D personnel lab coat /uniform management, and those other facilities serving a wide cross section of NETL ORD projects. It includes design, construction and preventative maintenance support for those parts of high-performance and research computing infrastructure not directly attributable to specific computational chemistry and modeling projects. It includes general laboratory infrastructure design, construction, maintenance and demolition support, such as electrical, HVAC, piping, plumbing, carpentry, painting, flooring, and standard case work not attributable to a specific research project. It includes policy compliance implementation and oversight for activities such as hazardous materials, chemical handling, waste disposal, chemical hygiene, NETL safety analysis and review system (SARS) permitting, federal/state/local permitting and compliance programs, safety training, quality assurance

and quality control operations. It includes logistical and technical coordination support such as management of the Contractor's NETL research portfolio and workforce, management of Contractor work control processes and systems, support of NETL ORD Front Office activities, internship programs, business management and intellectual property issues, including patents, licensing, and technology transfer activities.

Base Period – Estimated DPLH – [REDACTED]	Effective date through 24 Months
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 2 – Computational and Basic Sciences. This CLIN supports research and project-specific infrastructure within the Computational and Basic Sciences Focus Area. Work within this area is intended to integrate physical and chemical experimental research with computational sciences as the preferred method for understanding and developing technologies, advanced materials, and multi-scale energy systems ranging from the molecular-scale to device-scale to plant-scale. The focus area has developed a strategy to assemble computational models from ab initio (atomic and molecular) through device-scale, and to integrate the device-scale models into virtual plant simulations. In concert with this modeling work, experimental R&D is conducted in selected program areas in close, often iterative, collaboration with the computational efforts. Types of work performed within the focus area include quantum mechanical simulations, multiphase flow simulations, device-scale simulations using computational fluid dynamics, advanced process engineering co-simulations, integrated virtual plant modeling, hydrogen technology research and development, natural gas hydrates research and development, validation testing at each scale, and energy infrastructure security and interdependency analysis. The focus area supports activities in coal power systems and natural gas and oil technologies, and also strives to meet national energy security goals. The long-term objective of the focus area is to develop science-based and validated computational tools to simulate and facilitate the development of clean, highly efficient energy systems of the future.

Base Period – Estimated DPLH – [REDACTED]	Effective date through 24 Months
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 3 – Energy System Dynamics. This CLIN supports research and project-specific infrastructure within the Energy System Dynamics Focus Area. Work in this area is intended to conceive, analyze, and develop pre-commercial energy technology that minimizes the environmental impact of fossil fuel use and that maximizes reliable use of domestic energy sources and infrastructure. The focus area primarily addresses devices that would be found “in plant,” such as turbines and fuel cell hybrids, fuel cells, fuel processors for fuel cells, gasification, carbon dioxide capture for pulverized coal and for integrated gasification combined cycle (IGCC) systems, reciprocating engines, and sensor/control methods for all these energy systems. This focus area is a recognized source of expertise and research leading to commercially viable technology that improves fossil-fuel-based energy systems. The focus area supports research and development in coal power systems, and supports the DOE global climate change initiatives. Research is centered around investigation and testing of new energy system concept and technologies.

Base Period – Estimated DPLH – [REDACTED]	Effective date through 24 Months
Estimated Cost (exclusive of fee)	[REDACTED]

Maximum Available Fee Pool

██████████

Total Estimated Cost Plus Maximum Award Fee Pool

██████████

CLIN 4 – Geological and Environmental Systems. This CLIN supports research and project-specific infrastructure within the Geological and Environmental Systems Focus Area. Work in this area is intended to assess the capacity, suitability, and permanence of potential carbon sequestration reservoirs, to assess the ability of unconventional reservoirs to produce gas and oil and assist in that production, to improve environmental performance of existing power plants, and to be recognized for performing sound science, achieving excellence, and meeting goals. The scope of the focus area includes geological sequestration; resources assessment; production modeling; development of unconventional gas and oil resources; fate of air toxics such as mercury; and water issues related to existing coal-fueled electric power plants. Sequestration simulation and field work expertise provides a valuable internal capability for NETL in assessing external activities. The Focus Area is intimately involved with current sequestration field-testing activities in collaboration with the regional sequestration partnerships developed by DOE. The focus area directly supports the DOE global climate change initiatives, carbon sequestration technologies, natural gas and oil technologies, and clean power generation. The long-range objective of the focus area is to conduct research in carbon sequestration, natural gas and oil, and environmental research.

Base Period – Estimated DPLH –

██████████

Effective date through 24 Months

Estimated Cost (exclusive of fee)

██████████

Maximum Available Fee Pool

██████████

Total Estimated Cost Plus Maximum Award Fee Pool

██████████

CLIN 5 – Materials Science. This CLIN supports research and project-specific infrastructure within the Materials Science Focus Area. Work in this area encompasses all aspects of the ‘materials life cycle’ starting with the formulation, processing, characterization, performance evaluation, prototyping, modeling, service life predictions and recycling of materials. Advanced materials and processes are vital to higher performance and more economic fossil energy systems such as state-of-the-art power plants, and other 21st century power and fuels production facilities. The Focus Area addresses the need for cost effective functional and structural materials to enable advanced power generation technologies, such as coal gasifiers, turbines, combustors, and fuel cells. Types of work in this focus area include: fundamental research on the understanding the basic mechanisms of materials performance in complex environments; fundamental research on alloy and materials design and formulation; alloy and materials development and selection for high-temperature and aggressive environments; microstructural characterization; materials performance evaluation; service lifetime predictions; development of processes to efficiently produce prototype parts, including casting and wrought processing; and research to improve efficiencies of melting, smelting and/or other materials processing systems.

Base Period – Estimated DPLH –

██████████

Effective date through 24 Months

Estimated Cost (exclusive of fee)

██████████

Maximum Available Fee Pool

██████████

Total Estimated Cost Plus Maximum Award Fee Pool

██████████

CLIN 6 – New and Other Business. This CLIN supports the management and execution of research activities not included in existing Focus Areas, such as new FE initiatives, Work for Others, and reimbursable work assigned to NETL. It includes, but is not limited to Cooperative Research and Development Agreements (CRADA’s), International Agreements, Memoranda of Understanding (MOU’s), and Interagency Agreements. It also includes work done in collaboration with or support of other (non-FE) DOE organizational and program elements (including other DOE National Labs), work related to other (non-DOE) Federal agencies, state agencies, and local government

agencies, and/or work assigned to NETL as deemed to be in the National interest.

Base Period – Estimated DPLH – [REDACTED]	Effective date through 24 Months
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

B.2 OPTION PERIOD 1

- A. The Government may unilaterally extend the term of this contract by written notice to the Contractor within the term of the contract in accordance with clause 52.217-9 Option to Extend the Term of the Contract set forth in Part I Section B.
- B. If the Government exercises this option, the extended contract shall be considered to include this option provision.
- C. Should the Government exercise any option hereunder all contractual terms and conditions shall apply during the option period.

CLIN 1 – NETL ORD General Infrastructure and Logistics Support. This CLIN supports the management and implementation of general NETL ORD infrastructure and logistics activities not attributable to a specific research project effort. It includes the maintenance, operation and upkeep of ancillary facilities, including but not limited to machine shops, calibration /instrumentation shops, welding facilities, gas compression facilities, gas distribution networks, gas cylinder and bulk gas support, electrical, analytical services, control system, data collection infrastructure support, R&D personnel lab coat /uniform management, and those other facilities serving a wide cross section of NETL ORD projects. It includes design, construction and preventative maintenance support for those parts of high-performance and research computing infrastructure not directly attributable to specific computational chemistry and modeling projects. It includes general laboratory infrastructure design, construction, maintenance and demolition support, such as electrical, HVAC, piping, plumbing, carpentry, painting, flooring, and standard case work not attributable to a specific research project. It includes policy compliance implementation and oversight for activities such as hazardous materials, chemical handling, waste disposal, chemical hygiene, NETL safety analysis and review system (SARS) permitting, federal/state/local permitting and compliance programs, safety training, quality assurance and quality control operations. It includes logistical and technical coordination support such as management of the Contractor's NETL research portfolio and workforce, management of Contractor work control processes and systems, support of NETL ORD Front Office activities, internship programs, business management and intellectual property issues, including patents, licensing, and technology transfer activities.

Option Period 1 – Estimated DPLH – [REDACTED]	25th Month through 48 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 2 – Computational and Basic Sciences. This CLIN supports research and project-specific infrastructure within the Computational and Basic Sciences Focus Area. Work within this area is intended to integrate physical and chemical experimental research with computational sciences as the preferred method for understanding and developing technologies, advanced materials, and multi-scale energy systems ranging from the molecular-scale to

device-scale to plant-scale. The focus area has developed a strategy to assemble computational models from ab initio (atomic and molecular) through device-scale, and to integrate the device-scale models into virtual plant simulations. In concert with this modeling work, experimental R&D is conducted in selected program areas in close, often iterative, collaboration with the computational efforts. Types of work performed within the focus area include quantum mechanical simulations, multiphase flow simulations, device-scale simulations using computational fluid dynamics, advanced process engineering co-simulations, integrated virtual plant modeling, hydrogen technology research and development, natural gas hydrates research and development, validation testing at each scale, and energy infrastructure security and interdependency analysis. The focus area supports activities in coal power systems and natural gas and oil technologies, and also strives to meet national energy security goals. The long-term objective of the focus area is to develop science-based and validated computational tools to simulate and facilitate the development of clean, highly efficient energy systems of the future.

Option Period 1 – Estimated DPLH – [REDACTED]	25th Month through 48 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 3 – Energy System Dynamics. This CLIN supports research and project-specific infrastructure within the Energy System Dynamics Focus Area. Work in this area is intended to conceive, analyze, and develop pre-commercial energy technology that minimizes the environmental impact of fossil fuel use and that maximizes reliable use of domestic energy sources and infrastructure. The focus area primarily addresses devices that would be found “in plant,” such as turbines and fuel cell hybrids, fuel cells, fuel processors for fuel cells, gasification, carbon dioxide capture for pulverized coal and for integrated gasification combined cycle (IGCC) systems, reciprocating engines, and sensor/control methods for all these energy systems. This focus area is a recognized source of expertise and research leading to commercially viable technology that improves fossil-fuel-based energy systems. The focus area supports research and development in coal power systems, and supports the DOE global climate change initiatives. Research is centered around investigation and testing of new energy system concept and technologies.

Option Period 1 – Estimated DPLH – [REDACTED]	25th Month through 48 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 4 – Geological and Environmental Systems. This CLIN supports research and project-specific infrastructure within the Geological and Environmental Systems Focus Area. Work in this area is intended to assess the capacity, suitability, and permanence of potential carbon sequestration reservoirs, to assess the ability of unconventional reservoirs to produce gas and oil and assist in that production, to improve environmental performance of existing power plants, and to be recognized for performing sound science, achieving excellence, and meeting goals. The scope of the focus area includes geological sequestration; resources assessment; production modeling; development of unconventional gas and oil resources; fate of air toxics such as mercury; and water issues related to existing coal-fueled electric power plants. Sequestration simulation and field work expertise provides a valuable internal capability for NETL in assessing external activities. The Focus Area is intimately involved with current sequestration field-testing activities in collaboration with the regional sequestration partnerships developed by DOE. The focus area directly supports the DOE global climate change initiatives, carbon sequestration technologies, natural gas and oil technologies, and clean power generation. The long-range objective of the focus area is to conduct research in carbon sequestration, natural gas and oil, and environmental research.

Option Period 1 – Estimated DPLH – [REDACTED]	25th Month through 48 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 5 – Materials Science. This CLIN supports research and project-specific infrastructure within the Materials Science Focus Area. Work in this area encompasses all aspects of the ‘materials life cycle’ starting with the formulation, processing, characterization, performance evaluation, prototyping, modeling, service life predictions and recycling of materials. Advanced materials and processes are vital to higher performance and more economic fossil energy systems such as state-of-the-art power plants, and other 21st century power and fuels production facilities. The Focus Area addresses the need for cost effective functional and structural materials to enable advanced power generation technologies, such as coal gasifiers, turbines, combustors, and fuel cells. Types of work in this focus area include: fundamental research on the understanding the basic mechanisms of materials performance in complex environments; fundamental research on alloy and materials design and formulation; alloy and materials development and selection for high-temperature and aggressive environments; microstructural characterization; materials performance evaluation; service lifetime predictions; development of processes to efficiently produce prototype parts, including casting and wrought processing; and research to improve efficiencies of melting, smelting and/or other materials processing systems.

Option Period 1 – Estimated DPLH – [REDACTED]	25th Month through 48 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 6 – New and Other Business. This CLIN supports the management and execution of research activities not included in existing Focus Areas, such as new FE initiatives, Work for Others, and reimbursable work assigned to NETL. It includes, but is not limited to Cooperative Research and Development Agreements (CRADA’s), International Agreements, Memoranda of Understanding (MOU’s), and Interagency Agreements. It also includes work done in collaboration with or support of other (non-FE) DOE organizational and program elements (including other DOE National Labs), work related to other (non-DOE) Federal agencies, state agencies, and local government agencies, and/or work assigned to NETL as deemed to be in the National interest.

Option Period 1 – Estimated DPLH – [REDACTED]	25th Month through 48 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

B.3 OPTION PERIOD 2

- D. The Government may unilaterally extend the term of this contract by written notice to the Contractor within the term of the contract in accordance with clause 52.217-9 Option to Extend the Term of the Contract set forth in Part I Section B.
- E. If the Government exercises this option, the extended contract shall be considered to include this option provision.

F. Should the Government exercise any option hereunder all contractual terms and conditions shall apply during the option period.

CLIN 1 – NETL ORD General Infrastructure and Logistics Support. This CLIN supports the management and implementation of general NETL ORD infrastructure and logistics activities not attributable to a specific research project effort. It includes the maintenance, operation and upkeep of ancillary facilities, including but not limited to machine shops, calibration /instrumentation shops, welding facilities, gas compression facilities, gas distribution networks, gas cylinder and bulk gas support, electrical, analytical services, control system, data collection infrastructure support, R&D personnel lab coat /uniform management, and those other facilities serving a wide cross section of NETL ORD projects. It includes design, construction and preventative maintenance support for those parts of high-performance and research computing infrastructure not directly attributable to specific computational chemistry and modeling projects. It includes general laboratory infrastructure design, construction, maintenance and demolition support, such as electrical, HVAC, piping, plumbing, carpentry, painting, flooring, and standard case work not attributable to a specific research project. It includes policy compliance implementation and oversight for activities such as hazardous materials, chemical handling, waste disposal, chemical hygiene, NETL safety analysis and review system (SARS) permitting, federal/state/local permitting and compliance programs, safety training, quality assurance and quality control operations. It includes logistical and technical coordination support such as management of the Contractor's NETL research portfolio and workforce, management of Contractor work control processes and systems, support of NETL ORD Front Office activities, internship programs, business management and intellectual property issues, including patents, licensing, and technology transfer activities.

Option Period 2 – Estimated DPLH – [REDACTED]	49th Month through 60 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 2 – Computational and Basic Sciences. This CLIN supports research and project-specific infrastructure within the Computational and Basic Sciences Focus Area. Work within this area is intended to integrate physical and chemical experimental research with computational sciences as the preferred method for understanding and developing technologies, advanced materials, and multi-scale energy systems ranging from the molecular-scale to device-scale to plant-scale. The focus area has developed a strategy to assemble computational models from ab initio (atomic and molecular) through device-scale, and to integrate the device-scale models into virtual plant simulations. In concert with this modeling work, experimental R&D is conducted in selected program areas in close, often iterative, collaboration with the computational efforts. Types of work performed within the focus area include quantum mechanical simulations, multiphase flow simulations, device-scale simulations using computational fluid dynamics, advanced process engineering co-simulations, integrated virtual plant modeling, hydrogen technology research and development, natural gas hydrates research and development, validation testing at each scale, and energy infrastructure security and interdependency analysis. The focus area supports activities in coal power systems and natural gas and oil technologies, and also strives to meet national energy security goals. The long-term objective of the focus area is to develop science-based and validated computational tools to simulate and facilitate the development of clean, highly efficient energy systems of the future.

Option Period 2 – Estimated DPLH – [REDACTED]	49th Month through 60 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 3 – Energy System Dynamics. This CLIN supports research and project-specific infrastructure within the Energy System Dynamics Focus Area. Work in this area is intended to conceive, analyze, and develop pre-commercial energy technology that minimizes the environmental impact of fossil fuel use and that maximizes reliable use of domestic energy sources and infrastructure. The focus area primarily addresses devices that would be found “in plant,” such as turbines and fuel cell hybrids, fuel cells, fuel processors for fuel cells, gasification, carbon dioxide capture for pulverized coal and for integrated gasification combined cycle (IGCC) systems, reciprocating engines, and sensor/control methods for all these energy systems. This focus area is a recognized source of expertise and research leading to commercially viable technology that improves fossil-fuel-based energy systems. The focus area supports research and development in coal power systems, and supports the DOE global climate change initiatives. Research is centered around investigation and testing of new energy system concept and technologies.

Option Period 2 – Estimated DPLH – [REDACTED]	49th Month through 60 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 4 – Geological and Environmental Systems. This CLIN supports research and project-specific infrastructure within the Geological and Environmental Systems Focus Area. Work in this area is intended to assess the capacity, suitability, and permanence of potential carbon sequestration reservoirs, to assess the ability of unconventional reservoirs to produce gas and oil and assist in that production, to improve environmental performance of existing power plants, and to be recognized for performing sound science, achieving excellence, and meeting goals. The scope of the focus area includes geological sequestration; resources assessment; production modeling; development of unconventional gas and oil resources; fate of air toxics such as mercury; and water issues related to existing coal-fueled electric power plants. Sequestration simulation and field work expertise provides a valuable internal capability for NETL in assessing external activities. The Focus Area is intimately involved with current sequestration field-testing activities in collaboration with the regional sequestration partnerships developed by DOE. The focus area directly supports the DOE global climate change initiatives, carbon sequestration technologies, natural gas and oil technologies, and clean power generation. The long-range objective of the focus area is to conduct research in carbon sequestration, natural gas and oil, and environmental research.

Option Period 2 – Estimated DPLH – [REDACTED]	49th Month through 60 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 5 – Materials Science. This CLIN supports research and project-specific infrastructure within the Materials Science Focus Area. Work in this area encompasses all aspects of the ‘materials life cycle’ starting with the formulation, processing, characterization, performance evaluation, prototyping, modeling, service life predictions and recycling of materials. Advanced materials and processes are vital to higher performance and more economic fossil energy systems such as state-of-the-art power plants, and other 21st century power and fuels production facilities. The Focus Area addresses the need for cost effective functional and structural materials to enable advanced power generation technologies, such as coal gasifiers, turbines, combustors, and fuel cells. Types of work in this focus area include: fundamental research on the understanding the basic mechanisms of materials performance in complex environments; fundamental research on alloy and materials design and formulation; alloy and materials development and selection for high-temperature and aggressive environments; microstructural

characterization; materials performance evaluation; service lifetime predictions; development of processes to efficiently produce prototype parts, including casting and wrought processing; and research to improve efficiencies of melting, smelting and/or other materials processing systems.

Option Period 2 – Estimated DPLH – [REDACTED]	49th Month through 60 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

CLIN 6 – New and Other Business. This CLIN supports the management and execution of research activities not included in existing Focus Areas, such as new FE initiatives, Work for Others, and reimbursable work assigned to NETL. It includes, but is not limited to Cooperative Research and Development Agreements (CRADA's), International Agreements, Memoranda of Understanding (MOU's), and Interagency Agreements. It also includes work done in collaboration with or support of other (non-FE) DOE organizational and program elements (including other DOE National Labs), work related to other (non-DOE) Federal agencies, state agencies, and local government agencies, and/or work assigned to NETL as deemed to be in the National interest.

Option Period 2 – Estimated DPLH – [REDACTED]	49th Month through 60 th Month
Estimated Cost (exclusive of fee)	[REDACTED]
Maximum Available Fee Pool	[REDACTED]
Total Estimated Cost Plus Maximum Award Fee Pool	[REDACTED]

B.4 ESTIMATED TOTAL COST OF CONTRACT

The estimated total cost of this contract, inclusive of all CLINs and Maximum Available Fee Pools is [REDACTED]. This is an estimated total cost only and is not considered a ceiling value of the contract as this contract is to be available for the Government to obtain services for the contract period (TERM), even if the level of effort and/or the estimated cost as originally specified is insufficient. This is not a requirements type contract.

B.5 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT. (MAR 2000)

- (a) The Government may unilaterally extend the term of this contract by written notice to the Contractor within the term of the contract provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of the option under this clause, shall not exceed sixty (60) months.

B.6 OPTION TO EXTEND SERVICES

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted in accordance with the pricing requirements of FAR 8.707. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within thirty (30) days of the end of the contract period. Primary application of this authority would occur if delays in awarding a successor contract at the scheduled completion of this award were apparent.

B.7 DISTRIBUTION OF PERFORMANCE AWARD FEE

The total amount of award fee available for all CLINs identified in Part I Section B under this contract is assigned as follows:

FEE PERIOD	EVALUATION BEGINNING DATE	EVALUATION ENDING DATE	PLANNED VALUE	AVAILABLE AWARD FEE	FEE EARNED
1	11/15/2009	04/30/2010	*	*	*
2	05/01/2010	10/31/2010	*	*	*
3	11/01/2010	04/30/2011	*	*	*
4	05/01/2011	10/31/2011	*	*	*

*The Planned Value and Available Award Fee shall be filled in for each fee period based on the approved annual work operating plan for that period; the Fee Earned column shall be filled in based on the amount of fee earned for each evaluation period identified.

In the event the Government exercises an option period, the additional Fee Periods will be added to the table above. In the event of contract termination, either in whole or in part, the amount of award fee available shall be a pro-rata distribution associated with evaluation period activities or events as determined by the Contracting Officer (CO).

B.8 LIMITATION OF FUNDS – COST PLUS AWARD FEE

Pursuant to FAR 52.232-22, "Limitation of Funds," total funds in the amount of \$100,000 are obligated herewith and made available for payment of allowable costs and award fee to be incurred from the effective date of this contract through the period estimated to end November 30, 2009. The Limitation of Funds is further applied to the specific amounts obligated for each CLIN identified in Part I Section B of this contract.

B.9 ANNUAL INDIRECT RATE SUBMISSIONS

(a) Introduction

(1) Indirect billing, revised billing (as necessary), and final rate agreements must be established between a Contractor and the Department of Energy (DOE) for each of the Contractor's fiscal years for the life of the cost reimbursement type contract. These indirect rate agreements allow a Contractor to recover indirect expenses incurred during a fiscal year for which final indirect rates have not been established.

(2) Indirect billing and revised indirect billing rate proposals must represent the Contractor's best estimate of the anticipated indirect expenses to be incurred and the estimated allocation base for the current fiscal year in accordance with their approved accounting system. Revised billing rates allow a Contractor or DOE to adjust the approved billing rates, based upon updated information, in order to prevent significant over or under billings. Revised billing rates, once established, are retroactive to the beginning of the fiscal year involved and require an adjustment voucher to be submitted by the Contractor reconciling all previous indirect billings which used the previously approved billing rates.

(3) A final indirect rate proposal represents the indirect rate expenses actually incurred during a fiscal year and the actual business base experienced. Once established they are retroactive to the beginning of the fiscal year involved and require an adjustment voucher to be submitted by the Contractor reconciling all previous indirect billings if the established final rates differ from the previously approved billing rates.

(4) FAR 42.703(a) stipulates that "A single agency [see FAR 42.705-1(a)] shall be responsible for establishing indirect cost rates for each business unit. These rates shall be binding upon all agencies and their contracting offices, unless otherwise specifically prohibited by statute." This single Government agency is referred to as the Cognizant Federal Agency (CFA). The CFA is normally the Federal agency which has the largest unliquidated contract dollar amount by fiscal year with a Contractor.

(5) The establishment of rates for the reimbursement of independent research and development/bid and proposal costs shall be in accordance with the provisions of FAR 31.205-18, "Independent Research and Development and Bid and Proposal Costs," and both FAR Subpart 42.10 and DEAR 942.10, "Negotiating Advance Agreements for Independent Research and Development/Bid and Proposal Costs."

(6) Sections (b) and (c) or (d) of this clause define the requirements to be followed by the Contractor in establishing indirect rates for contracts when DOE is the CFA and when DOE is not the CFA. Specific instructions for submittal of indirect rate proposals to agencies other than DOE must be obtained from the agency involved.

(b) Requirements whether or not DOE is the CFA

(1) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable sections of FAR Part 30, "Cost Accounting Standards," FAR Part 31 and DEAR 931, "Contract Cost Principles and Procedures," in effect as of the date of this contract.

(2) Pending settlement of the final indirect expense rates for any period, the Contractor shall be reimbursed at billing rates approved by the CFA subject to acknowledgment by the DOE Indirect Rate Contracting Officer (IRCO). These billing rates are subject to appropriate adjustments when revised by mutual agreement or when the final indirect rates are settled, either by mutual agreement or unilateral determination by the CFA subject to acknowledgment by the DOE IRCO.

(3) The Contractor shall continue to use the latest DOE or CFA approved billing rate(s) which have been acknowledged by the DOE IRCO until those rates are superseded by establishment of final rates or more current billing rates. In those cases where current billing rates have not been established, the latest approved final rates shall be used for invoicing, unless it is determined by the DOE IRCO that use of said rates would not provide for an equitable recovery of indirect costs. In those instances the DOE IRCO will take whatever steps are necessary to establish rates that DOE considers to be reasonable for billing purposes.

(4) All Indirect Rate agreements and correspondence shall be submitted to:

U.S. Department of Energy
National Energy Technology Laboratory
626 Cochrans Mill Road
P.O. Box 10940
Contracting Officer for Indirect Rate Cost Management
Building 921-107
Pittsburgh, PA 15236-0940

(c) Requirements when DOE is the CFA

(1) No later than six months after the close of its fiscal year, the Contractor shall identify to the DOE IRCO all of its contracts with Federal agencies, either as a prime or as a subcontractor (any level), and provide the following information for those contracts:

Name of Federal Agency
Contract Number
Contract Value (total and by fiscal year)
Period of performance
Type of contract (CPFF, FFP, etc.)

(2) In accordance with the "Allowable Cost and Payment" clause (DEAR 952.216-7) the Contractor, as soon as possible but not later than six months after the close of its fiscal year, shall submit to the DOE IRCO, identified in paragraph (b)(4) of this clause, a proposal for final indirect rates based on the Contractor's actual costs for the period, together with all supporting data. The Contractor's failure to provide the required rate proposals in a timely manner may impact payment of vouchers and could ultimately result in suspension of payments for the indirect expense portion of the vouchers.

(3) The settlement of the final indirect rates and indirect costs shall be accomplished prior to the Contracting Officer's approval of the final payment.

(4) Pending settlement of the final indirect expense rates for any period, the Contractor shall be reimbursed at billing rates approved by the DOE IRCO. These billing rates are subject to appropriate adjustments when revised by mutual agreement or when the final indirect rates are settled, either by mutual agreement or unilateral determination by the cognizant DOE IRCO (see FAR 42.704).

(5) The Contractor shall provide to the DOE IRCO annually, no later than 30 calendar days after the close of its fiscal year, a billing rate proposal for the ensuing fiscal year, with supporting data. Failure to provide the required rate proposals in a timely fashion may impact payment of vouchers and could ultimately result in suspension of the indirect expense portion of vouchers.

(6) If the projected indirect expenses or bases change substantially during any fiscal year, the Contractor shall notify the DOE IRCO in writing and request an adjustment to the indirect billing rates. Upon review of the revised billing rate proposal the DOE IRCO may adjust the previously approved billing rates. Such adjustments will apply retroactively to all billings containing the previously approved rates for the fiscal year in question and the Contractor shall make all appropriate adjustments on its next voucher.

(d) Requirements when DOE is not the CFA

(1) When another Federal Agency or a different DOE Office has the CFA responsibility for the establishment of indirect rates with the Contractor, the Contractor shall provide a copy of the rate proposals, including all supporting documentation, submitted to the CFA. These submittals to DOE shall be within the time periods established within paragraphs (c)(2) and (c)(5) of this clause unless a written request for an extension is submitted by the Contractor and granted by DOE. Failure to provide the required rate proposals in a timely manner may impact payment of vouchers and could ultimately result in suspension of payments for the indirect expense portion of vouchers.

(2) The Contractor shall provide copies of all rates established by that CFA and any correspondence related to indirect rates to the DOE IRCO. It is imperative that the DOE IRCO be provided signed copies of all rate agreements established by the CFA since these agreements must be in the possession of, reviewed, and acknowledged by the DOE IRCO before any rates contained therein can be used by the Contractor for cost reimbursement.

PART I SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 STATEMENT OF WORK

The Statement of Work is located in Part III -- Section J, Attachment A-2 to this contract.

C.2 REPORTS

Reports shall be prepared and submitted in accordance with the reporting requirements described in Part III -- Section J, Attachment B. Additional program and project level reports and deliverables may also be identified in the ORD Annual Work Requirement and included in the Contractor's Annual Operating Plan.

PART I SECTION D - PACKAGING AND MARKING

D.1 PACKAGING

Preservation, packaging, and packing for shipment or mailing of all work delivered hereunder shall be in accordance with good commercial practice and adequate to insure acceptance by common carrier and safe transportation at the most economical rate(s).

Except for those reports required by the Reporting Requirements Checklist of the contract, which are coded by A (As required) where the urgency of receipt of the report by the Government necessitates the use of the most expeditious method of delivery, reports deliverable under this contract shall be mailed by other than first-class mail, unless the urgency of the deliverable sufficiently justifies the use of first-class mail. The Contractor shall not utilize certified or registered mail or private parcel delivery service for the distribution of reports under this contract without the advance approval of the Contracting Officer except for those reports coded A.

D.2 MARKING

Each package, report or other deliverable shall be accompanied by a letter or other document which:

- (1) Identifies the contract by number under which the item is being delivered.
- (2) Identifies the deliverable Item Number or Report Requirement which requires the delivered item(s).
- (3) Indicates whether the Contractor considers the delivered item to be a partial or full satisfaction of the requirement.

For any package, report, or other deliverable being delivered to a party other than the Contracting Officer, a copy of the document shall be simultaneously provided to the office administering the contract, as identified in Section G of the contract, or if none, to the Contracting Officer.

PART I SECTION E - INSPECTION AND ACCEPTANCE

E.1 INSPECTION

Inspection of all items under this contract shall be accomplished by the DOE Contracting Officer's Representative (COR), or any other duly authorized Government representative.

E.2 ACCEPTANCE

Final acceptance of all work and effort under this contract (including "Reporting Requirements," if any) shall be accomplished by the Contracting Officer.

E.3 52.246-5 INSPECTION OF SERVICES - COST-REIMBURSEMENT. (APR 1984)

(a) *Definition.* "Services," as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may -

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce any fee payable under the contract to reflect the reduced value of the services performed.

(e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may -

(1) By contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances; or

(2) Terminate the contract for default.

PART I SECTION F - DELIVERIES OR PERFORMANCE

F.1 PERIOD OF PERFORMANCE (BASE CONTRACT WITH OPTION(S))

BASE CONTRACT

The work to be performed under the Base Contract (Reference Part I, Section, B) shall commence on the effective date of the contract and shall continue for twenty-four (24) months.

OPTION 1

If Option 1 is exercised, the work to be performed under the Contract option (Reference Part I, Section B) shall be for a period of twenty-four (24) months from 25th Month through 48th Month.

OPTION 2

If Option 2 is exercised, the work to be performed under the Contract option (Reference Part I, Section B) shall be for a period of twelve (12) months from 49th Month through 60th Month.

F.2 PRINCIPAL PLACES OF PERFORMANCE

The principal places of performance under this contract shall be at the National Energy Technology Laboratory, research centers in Morgantown, WV; Pittsburgh, PA; and Albany, OR. NETL may also require services at other locations, therefore the Contractor may be required to travel between, and provide services to various other locations in the United States.

F.3 52.242-15 STOP-WORK ORDER. (AUG 1989) ALTERNATE I (APR 1984)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either -

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Termination clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected, and the contract shall be modified, in writing, accordingly, if -

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience

of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

PART I SECTION G - CONTRACT ADMINISTRATION DATA

G.1 CORRESPONDENCE PROCEDURES

To promote timely and effective administration, correspondence (except for invoices and reports) submitted under this contract shall be subject to the following procedures:

(a) Technical Correspondence

Technical correspondence (as used herein, this term excludes technical correspondence where patent or technical data issues are involved and correspondence which proposes or otherwise involves waivers, deviations, or modifications to the requirements, terms, or conditions, of this contract) shall be addressed to the DOE Contracting Officer's Representative, with an information copy of the correspondence to the DOE Contract Specialist.

(b) Property Correspondence

Property correspondence (as used herein, this term includes correspondence which addresses matters which relate to property issues which come under the contract's Government property provisions) shall be addressed to the DOE Property Administrator, with information copies of the correspondence to the DOE Contracting Officer's Representative and the DOE Contract Specialist.

(c) Indirect Rate Correspondence

All correspondence relating to the establishment, revision, and negotiation of billing and final indirect cost rates shall be addressed to the Contracting Officer for Indirect Cost Rate Management, with information copies of the correspondence to the DOE Contract Specialist.

(d) Correspondence on Patent or Technical Data Issues

Subject inventions shall be reported to the Office of Intellectual Property Law, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Building 201, Argonne, IL 60439.

All other correspondence concerning patent or technical data issues shall be addressed to the NETL Patent Attorney, the DOE Contract Specialist, and the Contracting Officer's Representative.

(e) Other Correspondence

All other correspondence shall be addressed to the DOE Contract Specialist with information copies of the correspondence to the DOE Contracting Officer's Representative.

(f) Subject Line(s)

All correspondence shall contain a subject line commencing with the contract number, i.e., (DE-FE0004000), and identifying the specific contract action requested.

G.2 SUBMISSION OF VOUCHERS/INVOICES

(a) Voucher Form (SF 1034)

In requesting reimbursement, contractors shall use Standard Form 1034 (Public Voucher for Purchases and Services Other Than Personal), and F4220.50 (Statement of Cost). Electronic versions of the SF1034 and the F4220.50 can be found on the NETL website at <http://www.netl.doe.gov/business/forms.html>. The Statement of Cost shall be supported by the information contained in Paragraph (c) of this clause. Acceptable substitutes for the forms (which provide the same necessary information) may be used.

In accordance with FAR 52.232-25, "Prompt Payment," all invoices shall include the following information:

- (1) Name and address of contractor/vendor
- (2) Invoice date
- (3) Contract number or other authorization for delivery of property or service
- (4) Description, price and quantity of property and services actually delivered or rendered
- (5) Shipping and payment terms
- (6) Name (where practicable), title, phone number and complete mailing address of responsible official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment)
- (7) Name (where practicable), title, phone number and complete mailing address of the person to be notified in the event of a defective invoice.
- (8) Other substantiating documentation or information as required by the contract.

(b) Statement of Cost

The SF 1034 shall be completed so as to make due allowances for the Contractor's cost accounting system. The costs claimed shall be only those recorded costs (including cost sharing) which are authorized for billing by the payment provisions of this contract. Indirect rates claimed shall be billed in accordance with the "Allowable Cost and Payment Clause." The Certification (block 11) must be signed by a responsible official of the Contractor.

(c) Supporting Documentation

Direct costs (e.g., labor, equipment, travel, supplies, etc.) claimed for reimbursement on the Statement of Cost must be adequately supported. The level of detail provided must clearly indicate where the funds were expended. For example, support for labor costs must include the labor category (e.g., senior engineer, technician, etc.) the hourly rate, and the labor cost per category; equipment costs must be supported by a list of the equipment purchased, along with the item's cost; supporting data for travel must include the destination of the trip, number and labor category of travelers, transportation costs, per diem costs, and purpose of the trip; and supplies should be categorized by the nature of the items (e.g., office, lab, computer, etc.) and the dollar amount per category.

Indirect rates used for billings must be clearly indicated, as well as their basis of application. When the cognizant Administrative Contracting Officer (ACO) or auditor approves a change in the billing rates, include a copy of the approval.

The invoice, cost management report, invoice detail report, and staffing report summary are to be prepared and submitted at the same time so that all include the same information and are supportive of each other.

The contractor shall include a cumulative roll up of the cost-incurred-to-date which shall include separate lines for costs incurred and award fee, and DPLH as indicated below:

	Current Period	Cumulative Amount
Cost Incurred	XXXX	XXXX
Award Fee	XXXX	XXXX
DPLH	XXXX	XXXX

(c) Submission of Voucher

Submit the original voucher including the Supporting Documentation to the following payment office. This submission may be done electronically through the Vendor Inquiry Payment Electronic Reporting System (VIPERS) available to Contractors at the following website: <http://finweb.oro.doe.gov/vipers.htm>. Contractors must have a Federal tax identification number (TIN) and then obtain a personal identification

number (PIN) to access the system:

U. S. Department of Energy
Oak Ridge Financial Services Center
200 Administration Road, P. O. Box 4787
Oak Ridge, TN 37831

In addition, submit one hard copy to the Contract Specialist and one hard copy to the COR of the voucher including the Supporting Documentation to the following address:

U. S. Department of Energy
National Energy Technology Laboratory
3610 Collins Ferry Road, P.O. Box 880
Morgantown, WV 26507-0880

(e) Billing Period

Vouchers shall be submitted no more frequently than monthly (unless prior written consent of the Contracting Officer for more frequent billing is obtained). The period of performance covered by vouchers shall be the same as covered by any required monthly technical progress reports and/or monthly cost reports.

(f) Payment Method

In accordance with the clause entitled "Payment by Electronic Funds Transfer - Central Contractor Registration", payment under this contract will be made utilizing the Automated Clearing House (ACH) network. The payment system is specifically referred to as "Vendor Express."

(g) Defective Invoices

Invoices that are determined to be defective, and therefore not suitable for payment, shall be returned to the Contractor as soon as practicable, specifying the reason(s) why the invoice is not proper.

(h) Status of Payments

The Oak Ridge Financial Service Center (ORFSC) has a system via Internet, in which contractors can request information about payments by invoice, by contract number, and/or by paid date. The system is called Vendor Inquiry Payment Electronic Reporting System (VIPERS) and is available to contractors at the following website: <https://finweb.oro.doe.gov/vipers.htm>. Contractors must have a federal tax identification number (TIN) and then obtain a personal identification number (PIN) to access the system.

G.3 PAYMENT OF PERFORMANCE AWARD FEE

The Government will promptly make payment of any award fee earned upon submission by the Contractor to the Contracting Officer, of a public voucher or invoice in the amount of the total fee earned for the period evaluated. Payment shall be made based upon an authorization letter from the Fee Determination Official (FDO) and without the need for a contract modification. The Contractor shall submit a separate invoice (i.e., apart from regular monthly invoice) based on the FDO's fee notice to the Government for payment.

G.4 NOTICE OF INVOICE PROCESSING BY SUPPORT CONTRACTOR

A support service Contractor performs the function of processing of all invoices submitted to the National Energy Technology Laboratory, against its awards. Therefore, this Contractor has access to your cost/rate information. A special provision in this Contractor's award requires the confidential treatment by all Contractor employees of any and all business confidential information of other Contractors and financial assistance recipients to which they have access.

G.5 ACCOUNTABILITY OF COSTS/SEGREGATION OF CLINs

All costs incurred by the Contractor under this contract shall be segregated by each CLIN (and further segregated or identified by work assignment and funding stream, if applicable). The Contractor shall, therefore, establish separate "Job Order Accounts and Numbers" for each CLIN and shall record all incurred costs in the appropriate job order account in accordance with the Work Breakdown Structure clause set forth in Part I Section H.

There shall be no co-mingling of costs between CLINs (i.e., funds obligated to a specific CLIN must be used for cost incurred in performance of work for that specific CLIN).

G.6 ANNUAL WORK OPERATING PLAN

The Contractor shall incur costs under this contract only in the performance of work authorized by the Contracting Officer (CO) based on the requirements identified in the Statement of Work (SOW), ORD Annual Work Requirements, and the approved Contractor Work Operating Plan. No other costs are authorized without the express written consent of the CO.

1. Prior to the start of each fiscal year, the CO shall provide to the Contractor an ORD Annual Work Requirements document.
 - A. NETL's Office of Research and Development is responsible for planning and implementation of on-site research programs. These programs are designed to support development of energy related technologies to meet the nation's needs for clean, efficient energy systems with minimal environmental footprint. Research planning is integrated around Focus Areas representing NETL core competencies and is driven by a Focus Area Leader (FAL). The planning process is designed to support NETL key technologies as well as to develop new initiatives for future programs that match the needs of the nation with NETL core competencies. On an annual basis, the FAL's solicit research ideas from the ORD staff, NETL technology managers and research support contractors. The FAL's then work with Technology Managers and ORD Division Directors to select projects and determine funding levels. The result is a comprehensive approach to solving specific technology issues critical to NETL which includes applied R&D focused on important new technologies with targeted fundamental research projects to accelerate this technology development. This information will then be utilized to develop the ORD Annual Work Requirements document.
 - B. ORD Annual Work Requirements document shall further define the technical direction of research projects for the next fiscal year.
2. Within fifteen (15) calendar days after the issuance of the ORD Annual Work Requirements document, or as otherwise directed by the CO, the Contractor shall prepare and submit a Contractor Work Operating Plan for review and approval (or rejection). Contractor Work Operating Plans shall include:
 - a. A separate Cost Plan for each CLIN identified in Section B1 of this contract. The Cost Plan shall propose cost against a work breakdown structure. This Cost Plan shall be in sufficient detail to demonstrate all estimated costs at the lowest level of work breakdown structure to identify all costs associated with each activity of the work identified and shall align with the estimated DPLH listed for each CLIN:
 - i. Estimated Cost and Directive Productive Labor Hours (DPLH) by labor category on a monthly basis, including overtime (if authorized), and total DPLH, including subcontractor and consultant DPLH, if applicable;
 - ii. Travel, training, equipment, supplies, and materials estimate;
 - iii. Estimated subcontractors and consultants costs, including DPLH if applicable. (Subcontractor and consultant costs need to be provided at same level of detail as the prime)
 - iv. Other pertinent information (e.g., indirect costs, inter-divisional transfers);
 - v. Estimated computer time and cost, if applicable;

- b. A corresponding milestone schedule;
 - c. A corresponding monthly staffing plan detailing proposed direct productive man-hours by labor categories;
 - d. A Technical Approach Plan detailing the method to accomplishing the work identified in the SOW and ORD Annual Work Requirements document;
 - e. Any known impacts to other previously authorized work;
4. The CO may reject all or part of the Contractor Work Operating Plan. If rejected, the Contractor shall revise and resubmit within 10 (ten) calendar days from the rejection notification.
 5. Upon acceptance of the Contractor Work Operating Plan, the Contractor shall commence work.
 6. When "incurred cost to date" plus "the projected cost to complete" is expected to vary by plus or minus ten percent (based on individual Cost Plans by CLIN) from the Contractor Work Operating Plan, the Contractor shall promptly submit a written explanation for the variance and a revised Cost Plan for that specific CLIN to the CO. Upon acceptance, work shall be considered authorized at the revised estimate on the Cost Plan. No authorization will be provided for the subsequent Annual Plans if the necessary adjustments have not been made to the existing plan.
 7. On a quarterly basis, the Contractor shall review their Contractor Work Operating Plan to determine if the Technical Approach and Cost Plan are still in line with the Governments written technical direction of work. If a revision is determined to be necessary, the Contractor shall promptly submit a revised Contractor Work Operating Plan.
 8. Deliverables may consist of statements, charts, reports, briefing notes, tabulations, view graphs, and other forms of presentation as appropriate.

This ordering procedure is of a lesser order of precedence than the "Limitation of Cost," "Limitation of Funds," "Completion Dates," "Term of Contract," or "Level of Effort" clauses of the contract. The Contractor is not authorized to incur costs which are not in compliance with any of those clauses of the contract.

PART I SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 CONSECUTIVE NUMBERING

Due to automated procedures employed in formulating this document, clauses and provisions contained within it may not always be consecutively numbered.

H.2 TECHNICAL DIRECTION

- 1) Performance of the work under this contract shall be subject to the technical direction of the Administrative Contracting Officer's Representative (COR) (appointed for overall technical administrative direction of the contract) and the various Contracting Officer's Technical Representatives (COTR) (appointed by CLIN and technical area). The term "technical direction" is defined to include, without limitation:
 - (1) Directions to the Contractor which redirect the contract effort, shift work emphasis within work areas or areas, require the Contractor to pursue specific efforts, required pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the contractual Statement of Work and Annual SOW Clarification Statement.
 - (2) Issuance of written work assignments/orders providing technical direction on the appropriate funding codes and project limitations issued within the approved Contractor Work Operating Plan.
 - i. Pursuant to this clause, the COR and/or COTR will issue work assignments/orders to be performed under this contract.
 - ii. Upon written or oral notification by the COR/COTR that a work assignment/order is issued, the Contractor shall complete and submit a signed Work Assignment Plan to the COR/COTR for review and approval. The Work Assignment Plan shall include a detailed description of how the work will be performed (technical approach), milestones, deliverables (or other completion criteria), and a Work Assignment Cost Plan including the number of DPLH for performance of the work assignment from the labor categories set forth in this contract, travel, material, and/or other cost estimates, as may be applicable including any estimates for subcontractors and/or consultants.
 - iii. The contractor shall not begin work until the contractor has received written approval of the Work Assignment Plan from the COR/COTR.
 - iv. The Contractor shall notify the COR/COTR when costs for any given Work Assignment Plan are expected to exceed the agreed upon total estimated cost. The Contractor shall not exceed the total estimated cost for a work assignment without the prior written approval of the COR/COTR. If the Contractor reaches the total estimated cost for a work assignment without reaching completion of the work, the COR/COTR may increase the estimated total (in writing) and require the Contractor to continue performance within the new estimated total identified. The Government shall not reimburse the Contractor for any costs incurred in excess of the "not to exceed" amount, without the COR/COTR's written approval.
 - v. Under no circumstances shall the total amount of costs of all Work Assignment Plans exceed the estimated cost for the CLIN for which they were issued under, exclusive of any unexercised option, reflected in Part I Section B of the contract.
 - vi. The Contractor shall not exceed the obligated funds associated with each work assignment.
 - vii. The Contractor shall monitor, collect, control, report, and invoice costs in accordance with the Work Assignment Plans issued.
 - (3) Provision of written information to the Contractor which assists in the interpretation of drawings, specifications or technical portions of the work description.
 - (4) Review and, where required by the contract, approval of technical reports, drawings, specifications and technical information to be delivered by the Contractor to the Government under the contract.
- 2) Technical direction must be within the scope of work stated in the contract. The COR/COTR does not have the

authority to, and may not, issue any technical direction which:

- (1) Constitutes an assignment of additional work outside the Statement of Work;
 - (2) Constitutes a change as defined in the contract clause entitled "Changes";
 - (3) Constitutes a change or technical direction for work on which the individual is not formally designated or identified as a COTR;
 - (4) In any manner that causes a material change resulting in an increase or decrease in the total estimated CLIN cost based on the Contractor's Cost Plan(s);
 - (5) Constitutes changes to any terms, conditions, or specifications expressed in this contract; or
 - (6) Interfere with the Contractor's right to perform authorized work in accordance to the terms and conditions of the contract.
- 3) All technical directions shall be issued in writing by the COR/COTR.
- 4) The Contractor shall proceed promptly with the performance of technical directions duly issued by the COR/COTR in the manner prescribed by this clause and within the authority under the provisions of this clause. If, in the opinion of the Contractor, any instruction or direction by the COR/COTR falls within one of the categories defined in 2 (1) through (6) above, the Contractor shall not proceed but shall notify the Contracting Officer in writing within five (5) working days after receipt of any such instruction or direction and shall request the Contracting Officer to modify the contract accordingly. Upon receiving the notification from the Contractor, the Contracting Officer shall:
- (1) Advise the Contractor in writing within thirty (30) working days after receipt of the Contractor's letter
 - i. that the technical direction is within the scope of the contract effort and does not constitute a change under the "Changes" clause of the contract; or
 - ii. Advise the Contractor within a reasonable time that the Government will issue a written change order.
 - (2) A failure of the Contractor and Contracting Officer to agree that the technical direction is within the scope of the contract, or a failure to agree upon the contract action to be taken with respect thereto shall be subject to the provisions of the clause entitled "Disputes - Alternate I".

H.3 MODIFICATION AUTHORITY

Notwithstanding any of the other provisions of this contract, the Contracting Officer shall be the only individual authorized to:

- (a) accept nonconforming work,
- (b) waive any requirement of this contract, or
- (c) modify any term or condition of this contract.

H.4 GOVERNMENT PROPERTY AND DATA

- (a) Except as otherwise authorized by the Contracting Officer in writing, the Contractor is not authorized to acquire as a direct charge item under this contract any equipment (including office equipment), furniture, fixtures or other personal property items.
- (b) Acquisition Authorization Requirements

- (1) In the course of performance of this contract, the Contractor may only acquire and direct charge to this contract replacement items for those items on the "Government-Furnished Property List" and only as directed by the CO or their designee.
- (2) The Contractor shall be required to ensure that Contractor Acquired Property is entered into the Property Administration Management System (PAMS) and indicates the Purchase Order number utilized to acquire the property. The Contractor shall also enter into PAMS any changes to the Government-Furnished Property.
- (3) The Contractor may request authorization for acquisition of additional items from the Contracting Officer. Any such request shall include an analysis of the most economical method of acquisition (e.g., lease versus purchase) and shall describe the material equity arising from any proposed lease arrangement, such as option credits.
- (4) Any changes in the acquisition authorization shall be reflected in a revision of the "Government-Furnished Property List".
- (5) Authorization to acquire does not constitute consent to the placement of a subcontract.

(c) Government-Furnished Property and Data

- (1) Except as otherwise authorized by the Contracting Officer in writing, only that property and data specifically included in the "Government-Furnished Property List" shall be furnished.
- (2) The current "Government-Furnished Property List" is located on the Internet at <http://www.netl.doe.gov/business/solicitations/ssc2008/index.html> and will be available for Contractor access at this site during the solicitation phase of this contract.
- (3) The "Government-Furnished Property List" is considered a living document and is maintained through the Property Administration Management System (PAMS). The Contractor will designate an authorized representative who will have limited access to the PAMS for the purpose of updating the property list and acquiring property reports. The most current "Government-Furnished Property List" can be obtained through the report capability in the PAMS as property assigned to this contract.
- (4) Annually, unless a different schedule is approved by the Contracting Officer, the Contractor shall complete a physical inventory of property furnished. The inventory will be reconciled with the Government and adjustments, if necessary, will be made to the PAMS.
- (5) The "Government-Furnished Property List" as maintained in the PAMS is incorporated into this contract by reference in its entirety. No hard copy of the Government-Furnished Property List will be attached to this contract.
- (6) Administration of the Government-Furnished Property and the PAMS will be the responsibility of the Organizational Property Management Officer and/or the Government Property Administrator.

(d) Reporting Requirements

The reports required shall be submitted in accordance with 48 CFR 945 and the reporting requirements set forth in Part III, Section J, Attachment B. The reports are to include all capital equipment and sensitive items acquired or furnished under this contract, whether or not listed on the attachments referenced above.

II.5 USE OF GOVERNMENT-OWNED FACILITIES

The Contractor is authorized to use on a no-charge, non-interference, basis in the performance of this contract, the

Government-owned facilities indicated below.

NETL currently has office/work spaces for no more than 117 FTEs at the Pittsburgh site, 126 at the Morgantown site, and 57 at the Albany site that are available for use by on-site Contractor personnel. The availability of office/work space is subject to change and will be based on current availability for each specific NETL site. Other associated Government furnished items for the on-site personnel include: office/work space, office/work area furniture, local area network services, parking facilities, and other services as described in the clause entitled "Government Provided Services".

H.6 MOVEMENT OF GOVERNMENT PROPERTY OFF-SITE -- NETL

No Government-owned property, equipment, or materials will be removed from the National Energy Technology Laboratory without the completion of NETL Form 580.1-6, Property Pass and the prior written permission from the Contracting Officer or his/her designee and NETL's Property Administrator, excluding Government vehicles assigned to the contractor.

H.7 WORK BREAKDOWN STRUCTURE

The Contractor's Work Breakdown Structure (WBS) and dictionary shall require the written approval of the Contracting Officer's Representative (COR) prior to submission of the first invoice. The WBS and dictionary submitted by the Contractor shall be in sufficient detail to track all incurred cost and labor hours to their lowest elements. For example, as a minimum, the WBS Structure and dictionary must be capable of breaking down labor cost, travel, materials, supplies, equipment, subcontracts, consultants, and other costs.

- A. WBS Structure Use – The Contractor shall use the WBS structure and dictionary approved by the Administrative COR as the basis for all contractual reporting, invoicing, and accounting;
- B. Changes in WBS – On an annual basis the Contractor shall review their WBS Structure to ensure continued compliance with the work required. If a change is determined to be necessary, the Contractor shall submit a revised WBS and dictionary for review and approval;
- C. Subcontract WBS – The Contractor shall include the requirements of this clause in all cost-reimbursement subcontracts it issues when:
 - (1) The value of the subcontract is greater than \$250,000, unless specifically waived by the Contracting Officer; or
 - (2) The Contracting Officer determines that the subcontractor effort is, or involves, a critical area related to the contract.

D. Example:

WBS Level 1: Contract Level Reporting

WBS Level 2: CLIN Level Reporting

WBS Level 3: Work Assignment Level Reporting

WBS Level 4: Activity Level Reporting

WBS ELEMENT X.X: _____(TITLE)

OBJECTIVE: State the objective of the work element in a concise manner.

BACKGROUND: State the background in a concise manner. Include descriptions of any outstanding issues which must be resolved in order to make progress.

H.8 KEY PERSONNEL/PROGRAM MANAGER

The key personnel, which include the Program Manager, specified below, are considered to be essential to the work

being performed under this award; moreover, any changes to these personnel require prior DOE Contracting Officer's written approval.

The Program Manager shall serve as the Contractor's authorized supervisor for technical and administrative performance of all work hereunder. The Program Manager shall receive and execute, on behalf of the Contractor, such technical directions as the DOE Contracting Officer's Representative may issue within the terms and conditions of the contract.

The following is a list of key personnel that have been approved for this contract:

<u>Name</u>	<u>Title</u>
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Prior to diverting any of the specified individuals, the Contractor shall notify the Contracting Officer not less than thirty (30) calendar days prior to the diversion or substitution of key personnel and shall submit a written justification (including qualifications of proposed substitutions) to permit evaluation. The proposed changes will be approved in writing at the sole discretion of the Contracting Officer.

Retention of key personnel is important to the overall efficiency and continuity of execution of the contract. The contractor shall not divert more than one (1) of the identified group of key personnel, as described above, during the same performance period (every six months). This means that, for the positions identified above as key personnel (including the program manager), no more than one of this group may be reassigned away from this contract during any given performance period. Exceptions will be made for documented performance issues with key personnel.

H.9 AWARD FEE DEDUCTION BASED ON FAILURE TO FULFILL COMMITMENT INDICATED BY TEAM MEMBER OR THAT OF KEY PERSONNEL/KEY TECHNICAL STAFF

In the event that a team member, key personnel or key technical staff fails to honor their commitment for the time period indicated in their commitment letter contained in the contractor's proposal, then the total award fee earned during the affected fee period(s) may be reduced by 10%, at the discretion of the Fee Determining Official, for each position and team member where the commitment was not honored. This deduction will be taken in addition to any other reduction noted for the performance of the contractor during the affected rating period.

H.10 INCORPORATION OF CONTRACTOR'S PROPOSAL

The contractor's proposal in its entirety is incorporated by reference. In the event of any conflict between the other terms and conditions of the contract and those presented in the contractor's proposal, the contract shall prevail.

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Any no-cost value added commitments in the Contractor's proposal, other than those listed above, are not accepted by the Government, unless and until this contract clause is modified in writing to include such commitments. Nothing in this contract shall prohibit the contractor from supplementing the existing commitments with new and or additional commitments as long as the commitment(s) are mutually agreed to by both parties and formally documented in writing through a contract modification.

- (b) The Contractor shall provide to the Contracting Officer an annual report of accomplishments against the commitments specified above at the end of each Government fiscal year. The Contractor agrees that such reports may be made available to the public. The Contractor shall make available to DOE data that will validate the accomplishments of these commitments. A final report documenting and certifying the total commitments provided by the Contractor to NETL shall be submitted to NETL 30 days prior to the end of the contract period. The annual reports and final report shall constitute deliverables under this contract.
- (c) The costs associated with the Contractor's efforts in achieving its commitment under this clause are not allowable as direct or indirect charges against this contract or any other government contract or agreement.
- (d) In the event it is determined by NETL, that the Contractor failed to achieve its commitment on an annual basis, NETL shall notify the Contractor in writing and the Fee Determination Official may elect to reduce the fee earned for that particular year. If the government must acquire a contractor committed resource at its own expense, the Contractor shall also be liable to the Government for the cost of the resource plus the government's cost of acquiring the resource.

H.11 PRIOR APPROVAL REQUIREMENTS FOR PLACEMENT OF SUBCONTRACTS AND/OR CONSULTANTS

The Contractor shall obtain the Contracting Officer's written consent before placing any subcontract, including consultants, for which advance notification is required under FAR 52.244-2, "Subcontracts".

Any request for subcontract/consultant approval shall include the elements prescribed by FAR 52.244-2, including subcontractor/consultant Representations and Certifications. For consultants the Contractor will obtain and furnish information supporting the need for and selection of such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultants to others for performing consulting services of a similar nature.

Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts and/or consultants shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.

The Contractor is hereby given consent to the placement of the following subcontracts, which were evaluated during

negotiations:



Notwithstanding this consent, the Contractor shall ensure compliance with FAR 52.244-2. All subcontracts and/or consultants must contain all applicable flow-down clauses contained in Part II, Section I.

H.12 SUBCONTRACTOR FACILITIES CAPITAL COST OF MONEY

- a) To the extent a subcontractor proposes to recover as an element of proposed cost any Facilities Capital Cost of Money (FCCOM) from a higher tier subcontractor or from the prime Contractor, the FCCOM cost principle (FAR 31.205-10) shall apply to subcontracts and new scope modifications issued thereto which are fee bearing cost reimbursement type or negotiated fixed price type.
- b) To the extent a subcontractor is eligible to recover yet does not propose as an element or proposed cost any Facilities Capital Cost of Money (FCCOM) from a higher tier subcontractor or from the prime Contractor, the higher tier subcontractor or the prime Contractor shall insert the following provision in any such subcontract or new scope modification issued thereto:

Waiver of Facilities Capital Cost of Money (FAR 52.215-17, OCT 1997)

The Contractor did not include facilities capital cost of money as a proposed cost of this contract. Therefore, it is an unallowable cost under this contract.

- c) The Contractor agrees to insert the substance of this clause, including this paragraph (c) altered as necessary for proper identification of the parties, in any subcontract placed hereunder which is a fee bearing cost reimbursement or negotiated fixed price type.

H.13 INDIRECT COSTS

Pending establishment of final indirect cost rates for any period, billing and reimbursement of indirect costs shall be made on the basis of provisional rates recommended by the cognizant Government auditor. When a rate change occurs, and after it has been audited and approved by the cognizant Government auditor, the Contractor shall inform the Contracting Officer by letter of the indirect rate change. This notification shall include a copy of the cognizant auditor's approval and the cost impact of the rate change on the program.

H.14 LIMITATION OF INDIRECT COST

Notwithstanding any other clause(s) of this contract, the Government shall not reimburse the Contractor for any site specific on-site and G&A indirect costs in excess of the indirect expense dollars derived for each of the Contractor's fiscal years by the application of the following individual indirect cost ceiling rates to the appropriate base outlined below. The indirect cost ceiling rates are based on a *percentage of overall rate*. All indirect costs in excess of said limit(s) shall be borne by the Contractor.

A) Percentage of Overall Rate

Indirect Cost	Base of Application	Indirect Cost Ceiling Rate(s) per Contractor's Fiscal Year (1)				
		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

(1) For Contractor's FY beginning January 1 and ending December 31.

The indirect cost limitations set forth above include provisions for all known increases that will take place during the term of this contract resulting from statute, court decisions and/or written ruling or regulation by the Internal Revenue Service (IRS) or any other taxing authority. However, in the event that during the term of this contract, any other statute, court decision and/or written ruling or regulation affects the Contractor's indirect costs, the indirect cost limitations will be adjusted to the extent the Contracting Officer determines the increase or decrease, if any, said statute, court decision and/or ruling or regulation impacts the Contractor's indirect costs.

This clause shall be flowed down to all subcontracts issued under a cost reimbursement basis.

H.15 PERFORMANCE EVALUATION PLAN (PEP)

The Contractor's performance will be evaluated in accordance with the Performance Evaluation Plan included in Part III, Section J, Attachment C. The Plan includes the criteria to be considered under each area evaluated and the percentage of award fee available for each area. The Plan may be revised unilaterally by the Government with notification of the change(s) provided to the Contractor at least fifteen (15) calendar days prior to the start of the evaluation period to which the change will apply. The Plan may be revised bilaterally anytime throughout performance of the contract.

H.16 PERFORMANCE BASED AWARD FEE

(a) **AWARD FEE DETERMINATION**

- (i) The Government shall, at the conclusion of each evaluation period, evaluate the Contractor's performance for a determination of performance based award fee earned.

- (ii) The Contractor agrees that the determination of performance based award fee earned will be made solely by the Government FDO and such determination is binding on both parties.
- (iii) The evaluation of the Contractor's performance shall be in accordance with the Government's Performance Evaluation Plan (PEP) as indicated in Clause entitled "Performance Evaluation Plan" set forth in Part I Section H. The Contractor shall be promptly advised in writing of the FDO's determination and the reasons why the performance fee was or was not earned. While it is recognized that the basis for determination of the fee shall be the evaluation by the Government in accordance with the (PEP), the FDO may also consider any information available to him or her which relates to the Contractor's performance of contract and order requirements, regardless of whether or not those requirements are specifically identified in the PEP. To the extent the Contractor does not perform those requirements, the FDO may reduce the performance fee. In the event that the Contractor's performance is considered unacceptable in any area of performance which is specified in the Performance Evaluation Plan, even if no weight or fee is specifically assigned to the particular performance area, the FDO may at his/her sole discretion determine the Contractor's overall performance to be unacceptable, and accordingly may withhold the entire performance fee for the evaluation period.

(By way of example, in the ES&H area, the FDO may withhold the entire performance fee for the evaluation period in which the contractor's negligent or poor performance results in: (1) creation of a dangerous work environment; (2) liability, or risk thereof, to the Government; (3) death or injury to one or more workers; or, (4) notice(s) of violations being issued by regulatory agencies.)

- (iv) Any unearned award fee from each evaluation period shall not be eligible to be earned in any future period(s).

(b) CALCULATION OF AVAILABLE AWARD FEE

The maximum available fee pool will be established for each CLIN under this contract and is set forth in Part I Section B. The pool is expressed as a discreet dollar amount, not as a percentage of the plan.

(c) REVIEW AND ADJUSTMENT OF AVAILABLE AWARD FEE

A meeting with the COR, CO, and Contractor will be held immediately following release of the Cost Management Report (CMR) for the fourth month of the evaluation period to review, on a CLIN basis, any significant variances between planned DPLH and actual DPLH incurred. The COR and the Contractor will provide the CO with information concerning the variance(s) such that a determination may be made as to whether an adjustment in the fee pool for a particular CLIN is appropriate. Variances between planned and actual DPLH in performance are assumed to fall into one of the following three categories:

- (i) Actuals are less than planned due to Contractor management practices and cost saving efforts. No adjustment to the fee pool would be justifiable in this case. Cost overruns attributable to the Contractor will not increase the available fee pool.
- (ii) The work schedule, for whatever reason, has slipped, causing the work and its associated DPLH to move to a future performance period. In this case, the fee dollars should migrate with the work and a straight-line adjustment to the available fee would be appropriate.
- (iii) Actuals may underrun/overrun plan due to changes in programmatic nature of the scope. Some adjustment to the pool should be made, but a straight line adjustment may not be appropriate.

The Contracting Officer shall make a determination on acceptable adjustments to the available fee pool and those adjustments shall be documented in a contract modification prior to the closing of the evaluation period.

H.17 CONFIDENTIALITY OF INFORMATION

To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agree not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:

- (a) Information which, at the time of receipt by the Contractor, is in the public domain;
- (b) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
- (c) Information which the Contractor can demonstrate was in his possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies; or
- (d) Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.

The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.

The Contractor agrees that upon request by DOE it will execute a DOE-approved nondisclosure/nonuse agreement with any party whose facilities or proprietary data the contractor is given access to, or is furnished. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.

This clause shall flow down to all subcontracts.

H.18 CONTRACTOR COMMUNICATION RELEASES

The DOE policy and procedure on news releases requires that all Contractor communication releases (i.e., press releases, public statements) be reviewed and approved by DOE prior to issuance. Therefore, the Contractor shall, at least ten (10) working days prior to the planned issue date, submit a draft copy to the Contracting Officer of any planned news releases related to work performed under this contract. The Contracting Officer will then obtain necessary reviews and clearances and provide the Contractor with the results of such reviews prior to the planned issue date.

H.19 REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF THE OFFEROR

The Representations, Certifications and Other Statements of the Offeror for this contract are hereby incorporated by reference.

H.20 CONTRACTOR INTERFACE WITH OTHER CONTRACTORS AND/OR GOVERNMENT EMPLOYEES

The Contractor shall cooperate fully with all other on-site DOE Contractors (including, but not limited to, support service, architect and engineering, janitorial, computer operation Contractors, or consultants) and Government employees, and carefully fit its own work to such other work as may be directed by the Contracting Officer or the Contracting Officers Representative. The Contractor shall not commit, or permit, any act which will interfere with the performance of work by any other Contractor or by Government employees.

H.21 INSURANCE -- MINIMUM REQUIREMENTS

In accordance with FAR 52.228-7 (Section I), the Contractor shall provide insurance in the minimum amounts as set forth below. The required amount of insurance to be carried by the Contractor under this section may be changed upon the Government's written notice to the Contractor.

(a) Worker's Compensation and Employer's Liability.

Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. The Contractor shall obtain employer's liability coverage of at least \$100,000.

(b) General Liability.

The Contractor shall obtain bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence and property damage liability insurance coverage of at least \$500,000 per occurrence.

(c) Automobile Liability.

The Contractor shall obtain automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles, including Government furnished vehicles, used in connection with performing the contract. The Contractor shall obtain coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$50,000 per occurrence for property damage, including any property damage to Government furnished vehicles.

H.22 POSITION QUALIFICATIONS

Contractor direct labor personnel assigned to the performance of this contract shall satisfy as a minimum the applicable labor category qualifications, both education and experience, set forth in the "Position Qualifications" located in Part III, Section J, Attachment D to this contract, except as the Contracting Officer may authorize.

H.23 COMMUNITY COMMITMENT

It is the policy of NETL to be a constructive partner in the geographic region in which NETL conducts its business. The basic elements of this policy include: (1) recognizing the diverse interests of the region and its stakeholders; (2) engaging regional stakeholders in issues and concerns of mutual interest; and (3) recognizing that giving back to the community is a worthwhile business practice. Accordingly, the Contractor agrees that its business operations and performance under the contract will be consistent with the intent of the policy and elements set forth above.

H.24 CONSERVATION OF UTILITIES

The Contractor shall instruct Contractor employees in utilities conservation practices. The Contractor shall operate under conditions that preclude the waste of utilities.

The Contractor shall use lights only in areas where and at the time when work is actually being performed except in those areas essential for purpose of safety and security.

H.25 GOVERNMENT PROVIDED SERVICES

The Government shall provide the following on-site services. The Contractor shall use these services for official use only, in performance of the required services specified in this SOW.

- (a) Utilities: The Government shall provide electricity, water, lights, sewage, and heating or cooling.

- (b) Mail Distribution: The Government shall provide mail pick-up and delivery of official mail.
- (c) Postage: Government-provided postage is restricted to official correspondence.
- (d) Telephone: Telephones shall be provided for Contractor-personnel to make official local and long distance calls.
- (e) Custodial Service: The Government shall provide custodial services to include emptying of trash cans and vacuuming and shampooing of carpeted areas in Government-furnished facilities.
- (f) Refuse Collection: The Government shall provide refuse collection at Government-furnished facilities.
- (g) Insect and Rodent Control: The Government shall provide insect and rodent control in Government-furnished facilities. The Contractor shall notify the COR if the facilities appear to be infested.
- (h) Printing and Reproduction: Office copiers shall be provided according to Government policies for their use. The Contractor shall use NETL's Graphics and Printing facilities for the productions of documentation required in support of this SOW.
- (i) Equipment Maintenance: The Government shall maintain equipment whose maintenance is not obtained through this contract.
- (j) Security Police and Fire Protection: In case of emergency, the Contractor shall notify the Security Office immediately. The Contractor shall obtain these phone numbers from the COR and keep them posted and up to date at all times.
- (k) Transportation: NETL has a pool of GSA vehicles, to which the Contractor will have reasonable access for Official Government business in performance of services required by this Contract.
- (l) IT Services: The Government shall provide basic office automation tools to include an office computer connected to the NETL administrative network and loaded with an office software suite (presently MS Office); access to enterprise email and calendaring software (presently Novell GroupWise); access to enterprise applications as required; access to network file and print services; access to Internet services; office telephone and voice mail services; access to convenience copier and copy center services; access to library services; access to video teleconference and teleconference meeting resources as required; and access to helpdesk services.

H.26 SECURITY AND PERSONNEL REQUIREMENTS

(a) GENERAL RESPONSIBILITIES

The Contractor shall be responsible for complying with the provisions of NETL's unclassified security program. The Contractor shall cooperate with the Computer Security Program Manager (CPPM) and the Contracting Officer's Representative (COR) in all information security matters.

(b) CLASSIFIED MATERIAL AND SECURITY CLEARANCES

Performance under the contract may require that the contractor and its personnel gain access to classified and restricted data and facilities. For this reason the contractor and its personnel be capable of obtaining and maintaining the appropriate DOE security clearance (Levels L or Q). If access to classified material is required, the Contractor shall be required to obtain necessary security clearances for personnel who will have access to classified material. For unclassified material, the Contractor shall abide by all provisions of the Department of Energy (DOE) Order 205.1 "Unclassified Computer Security Program" (incorporated by reference). Classified work performed or supported by the Contractor shall be in full compliance to the

latest issue of "DOE Order M 471.2-1 titled Classified Matter Protection and Control Manual; DOE Order titled Classified Information Systems Security Manual; DOE Order O 471.2 titled Information Security Program; and any policies, orders, or regulations referenced therein or contained in the terms and conditions of this contract.

(c) ACCESS TO FACILITIES

The Contractor shall prohibit access to Government-furnished facilities of any persons other than authorized Government and Contractor employees, unless prior approval is obtained from the Contracting Officer (CO) or appropriate COR.

The Contractor shall maintain the security within the facility. Anyone entering the facility who does not have a valid NETL identity badge must be processed through NETL's Visitor Registration process at NETL's Security Office or main lobby and must obtain a visitor identification badge and be escorted by a NETL representative. All personnel who have not been issued a NETL identity badge shall be escorted.

(d) PHYSICAL SECURITY

The Contractor shall be responsible for safeguarding and securing all Government property provided for use under this contract. The Contractor shall notify the COR and submit a completed loss/theft report (NETL-F 4701.1-1-1) with NETL Security within 24 hours after discovery of any missing Government property.

(e) KEY CONTROL

The Contractor shall ensure there is adequate control of keys and access cards to preclude the loss, misplacement or unauthorized use and access to Government equipment and facilities. The Contractor shall not duplicate keys issued by the Government.

In the event the Contractor loses Government keys, the Government shall replace, or re-key, all keys or locks, as the Government deems necessary. The Government shall deduct the total cost for replacing locks and keys from the monthly payment due the Contractor. In the event a master key is lost or duplicated, the Government shall replace all locks and keys for that system and deduct the total cost for replacement from the monthly payment due to Contractor; or at the Government's discretion, the Government shall require the Contractor to replace locks and keys to the COR's satisfaction.

The Contractor shall report any occurrence of a lost or misplaced key to the COR within 4 hours of discovering that a key has been lost or misplaced. The Contractor shall provide a follow-up report, in writing, to the COR within 24 hours.

The Contractor shall prohibit the use of Government-issued keys by any persons other than the Contractor's authorized employees.

(f) COMBINATION CONTROL

The Contractor shall ensure there is control of combinations for cipher locks. The Contractor shall notify the COR within one workday after termination of employment of all Contractor employees who have access to the combination. The Contractor shall establish and implement methods to ensure that no lock combinations are revealed to unauthorized persons. The procedures shall be included in the Contractors Quality Control Program.

(g) PERSONNEL AND SECURITY

(1) Building Access: The Contractor shall require all contract employees' to complete the appropriate forms for computer and Building access security.

(2) Identification Badge: The Contractor shall obtain an identification badge for each Contractor employee from NETL Security prior to entry on duty. Contractor employees shall display this identification badge at all times within NETL facilities. Contractor shall be responsible for returning badge of departing employee to Security.

(h) DATA SECURITY

All information, whether stored in the computer, in hard copy form, or on magnetic media, shall be protected from unauthorized disclosure, and unauthorized modification or destruction at all times. Contractor personnel shall take all precautions to protect the information and programs and shall report all suspected violations to the COR or CSPM. The Contractor shall immediately verbally notify, and notify in writing before the close of business of the next day, the Government COR or the CO or his authorized representative, in the event that the Contractor has or has reason to suspect a breach of data security occurred.

Information processed and stored by these Information Resource systems shall include some information that must be safeguarded from disclosure and alteration. That information is subject to protection by various laws, regulations and agreements. The Contractor agrees, in the performance of this contract, to keep sensitive information in the strictest of confidence and to protect it from unauthorized modification or destruction. The Contractor also agrees not to publish, reproduce, or otherwise divulge such information in whole or in part, in any manner or form, and not to authorize or permit others to do so. The Contractor shall take such reasonable measures as are necessary to restrict access to this information, while in his possession, to those employees needing such information to perform the work provided herein (e.g. on a "need to know" basis). The Contractor shall immediately verbally notify, and notify in writing before the close of business of the next day, the Government COR or the CO or his authorized representative, in the event that the Contractor has or has reason to suspect a breach of data security occurred.

H.27 ACCESS TO DOE –OWNED OR LEASED FACILITIES

(a) The performance of this contract requires that employees of the Contractor have physical access to DOE-owned or leased facilities; however, this clause does not control requirements for an employee's obtaining a security clearance. The Contractor understands and agrees that DOE has a prescribed process with which the Contractor and its employees must comply in order to receive a security badge that allows such physical access. The Contractor further understands that it must propose employees whose background offers the best prospect of obtaining a security badge approval for access, considering the following criteria, which are not all inclusive and may vary depending on access requirements:

- (1) is, or is suspected of being, a terrorist;
- (2) is the subject of an outstanding warrant;
- (3) has deliberately omitted, concealed, or falsified relevant and material facts from any Questionnaire for National Security Positions (SF-86), Questionnaire for Non-Sensitive Positions (SF-85), or similar form;
- (4) has presented false or forged identity source documents;
- (5) has been barred from Federal employment;
- (6) is currently awaiting a hearing or trial or has been convicted of a crime punishable by imprisonment of six (6) months or longer; or
- (7) is awaiting or serving a form of pre-prosecution probation, suspended or deferred sentencing, probation or parole in conjunction with an arrest or criminal charges against the individual for a crime that is punishable by imprisonment of six (6) months or longer.

(b) The Contractor shall assure:

(1) In initiating the process for gaining physical access, (i) compliance with procedures established by DOE in providing its employee(s) with any forms directed by DOE, (ii) that the employee properly completes any forms, and (iii) that the employee(s) submits the forms to the person designated by the Contracting Officer.

(2) In completing the process for gaining physical access, that its employee (i) cooperates with DOE

officials responsible for granting access to DOE –owned or leased facilities and (ii) provides additional information, requested by those DOE officials.

(c) The Contractor understands and agrees that DOE may unilaterally deny a security badge to an employee and that the denial remains effective for that employee unless DOE subsequently determines that access may be granted. Upon notice from DOE that an employee’s application for a security badge is or will be denied, the Contractor shall promptly identify and submit the forms referred to in subparagraph (b)(1) of this clause for the substitute employee. The denial of a security badge to individual employees by DOE shall not be cause for extension of the period of performance of this Contract or any contractor claim against DOE.

(d) The Contractor shall return to the Contracting Officer or designee the badge(s) or other credential(s) provided by DOE pursuant to this clause, granting physical access to DOE -owned or leased facilities by the Contractor’s employee(s), upon (1) the termination of this Contract; (2) the expiration of this Contract; (3) the termination of employment on this Contract by an individual employee; or (4) demand by DOE for return of the badge.

(e) The Contractor shall include this clause, including this paragraph (e), in any subcontract, awarded in the performance of this Contract, in which an employee(s) of the subcontractor will require physical access to DOE – owned or leased facilities.

All questions and compliance issues should be directed to the NETL Security Officer.

H.28 PERMITS AND LICENSES

Within sixty (60) calendar days of award, the contractor shall submit to the DOE Contracting Officer a list of ES&H-related permits and licenses that, in the contractor’s opinion, shall be required to complete the work under this award. This list shall include a description of the permit or licenses, the approving authority, and the submission and approval schedule. The Contracting Officer shall be notified as specific items are added or removed from the list and processed through their approval cycles. The contractor agrees to include this clause in subcontracts and agrees to enforce the terms of this clause.

H.29 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) – PRIOR APPROVALS

The National Environmental Policy Act of 1969 (NEPA) requires that all federal agencies consider the impacts of their projects on the human environment. As part of the DOE’s NEPA requirements, the contractor shall be required to supply to the DOE certain environmental information. DOE funds may only be expended by the contractor on activities consistent with 40 CFR 1506.1, until DOE notifies the contractor that all NEPA requirements have been satisfied.

H.30 ENVIRONMENTAL, SAFETY, AND HEALTH MANAGEMENT SYSTEM POLICY AND ENVIRONMENTAL ASPECT AND OBJECTIVE/TARGET CONSIDERATIONS

The contractor must be knowledgeable of NETL’s environment, safety, and health management system policy, aspects, objectives and targets and consider how their work could affect or create additional aspects or objectives. The contractor shall support NETL’s ISO 14001 and OHSAS 18001 certifications by ensuring that his/her employees and work practices support the NETL ES&H policy, plans, procedures and the objectives and targets.

H.31 ENVIRONMENTAL, SAFETY, AND HEALTH ON-SITE SERVICE CONTRACTS

(a) The contractor shall take all reasonable precautions in the performance of the work under this contract to protect the safety and health of his/her employees, other NETL employees, and the public, and to prevent damage to the environment and NETL-owned materials, supplies, equipment, facilities, and any other NETL-owned property.

(b) The contractor shall comply with the requirements of NETL’s environment, safety, and health (ES&H) programs as implemented through NETL directives (orders, operating plans and procedures). These programs are based on conforming to the requirements listed on NETL’s focused standards list (see Focused Standards List clause in Part I,

Section H), which is a compendium of applicable federal, state, and local regulations; consensus standards; and DOE directives. In particular, the contractor shall comply with the procedural, recordkeeping, and reporting requirements of these ES&H programs and their supporting directives. Where conflict exists among the standards' requirements, the most protective shall be adopted, unless relief is provided by the Contracting Officer.

(c) The contractor shall generate and implement an integrated safety management (ISM) plan describing how the contractor will implement NETL's ES&H policy and the DOE ISM philosophy, as outlined in ISM directives, into the planning, budgeting, execution, and assessment of work activities. The plan shall describe the contractor's approach to

(1) the integration of ISM's five functions: defining the scope of work, analyzing the hazards, developing and implementing controls, performing work safely, and ensuring performance into its everyday work activities, and

(2) demonstrating ISM's seven guiding principles: workforce responsibility and accountability; clear roles, responsibilities, and authorities; competence commensurate with responsibilities, balanced priorities, identification of ES&H standards and requirements; hazard controls tailored to work being performed; and work authorization.

The contractor shall describe in this plan how the contractor's work will be integrated with NETL's ISM System. The contractor shall submit the plan to the Contracting Officer or his/her representative for review and approval within 30 calendar days after the date of contract award. This plan shall be updated annually and resubmitted to the Contracting Officer or his/her representative for review and approval.

(d) The contractor shall comply with NETL directives on conducting safety analysis and reviews for research and development projects, support operations, and facility construction and maintenance and shall implement the requirements resulting from the analysis and review.

(e) Contractor employees shall complete mandatory ES&H training as required by the nature of the job being performed or by legal, DOE or NETL requirements. The contractor shall maintain training records for his/her employees to demonstrate that training has been completed.

(f) The Contracting Officer shall notify the contractor, in writing, of any non-conformance with the ES&H requirements of this contract. After receipt of such notice, the contractor shall immediately take corrective action. In the event that the contractor fails to comply with NETL's environment, safety, and health requirements, the contracting office may, without prejudice to any other legal or contractual rights of the DOE, issue an order stopping all or any part of the work; thereafter, a start order for work resumption may be issued by the Contracting Officer. The contractor shall make no claim for an extension of time, or for compensation or damages by reason of, or in conjunction with, such work stoppage.

(g) The contractor shall include this environment, safety, and health clause in all subcontracts requiring work at the NETL sites and shall be responsible for ensuring that subcontractors adhere to these ES&H requirements.

(h) The DOE or its authorized representative shall have the right to inspect any work areas or facilities occupied by the contractor.

(i) The contractor keep records such as raw data, interpreted results, reports, correspondence, and other materials proving regulatory and standard compliance, according to DOE records management schedules.

(j) Accidents or incidents resulting in human injury or property damage are to be reported immediately to the Contracting Officer or his/her representative. Notification, recording, and reporting requirements for accidents or incidents shall be conducted in accordance with 29 CFR 1904 and 1910 and the associated NETL directives. The Contracting Officer or his/her representative shall be provided with copies of all required documentation within 10 calendar days of the accident or incident.

(k) The contractor shall maintain an accurate record of onsite hours worked and shall provide this information to the

Contracting Officer or his/her representative upon request in order to calculate hours-based ES&H statistics.

(l) The contractor shall collect metrics on environment, safety, and health performance as determined by NETL in addition to those contained in their ISM plan. These metrics may change with time. The following are examples and may not represent the actual metrics that will be required to be reported: recordable injury/illness rate (total number of OSHA-defined recordable injuries and illnesses/total hours worked); days away or restricted time rate (total number of OSHA-defined lost work day cases or restricted days cases/total hours worked); and hazardous waste generated (total cubic feet of hazardous waste shipped); number of employees who have completed ES&H training on-time; number of inspections/assessments conducted; and number of employees participating in the emergency response program. The metrics shall be provided to the contracting office or his/her representative.

(m) NETL depends on volunteers to staff its emergency response organization (ERO), including the HAZMAT/rescue team. The contractor shall allow participation of his/her employees in NETL's site-wide emergency response program. Participants shall be allowed the time necessary to fulfill ERO training obligations. The contractor whose employees participate in emergency response functions shall be responsible for providing any additional liability insurance or supplemental insurance deemed appropriate by the contractor for the ERO positions that their employees occupy.

H.32 QUALITY ASSURANCE/QUALITY CONTROL

The Contractor shall implement the DOE work using Quality Assurance/Quality Control measures as appropriate to:

- (a) Achieve accuracy, precision, and reproducibility of data adequate to fulfill the objectives of the work to be performed under this award;
- (b) Control experimental operations using accepted technical standards, instruction, and other appropriate means commensurate with the complexity and the risk of the work;
- (c) Identify, control and maintain components, equipment, facilities, hardware and materials;
- (d) Control handling, storage, and shipping. Cleaning and preservation to prevent damage, loss or deterioration;
- (e) Control calibration, maintenance, accountability, and use of measuring and testing equipment used for monitoring and data collection;
- (f) Ensure that designs use sound engineering/scientific principles and appropriate standards and demonstrate that equipment and processes performed as intended;
- (g) Ensure that purchased items and services meet established specifications and requirements;
- (h) Incorporate inspections as appropriate;
- (i) Continually improve the quality of the work done for DOE through the improvement of work practices guided by internal performance assessment.

H.33 SAFETY & HEALTH AND ENVIRONMENTAL PROTECTION

- (a) The Contractor shall implement the DOE work in accordance with all applicable Federal, State and local laws, including codes, ordinances and regulations, covering safety, health and environmental protection.
- (b) The Contractor agrees to include paragraph (a) of this clause in first-tier subcontracts and agrees to enforce the terms of this clause.

H.34 HAZARDOUS WASTES MANIFESTS AND LABELS

The contractor shall not identify, on waste manifests or container labels or otherwise, the DOE or the NETL as the owner or generator of hazardous waste without written permission, signed by the Contracting Officer or his/her designee.

H.35 INDEMNITY -- ENVIRONMENTAL, HEALTH AND SAFETY VIOLATIONS

Should the contractor, in the performance of work under this contract, fail to comply with the requirements of environmental permits, local laws or regulations, state laws or regulations, federal laws or regulations, the statement of work and its attachments, and cause any environmental, health, or safety liability to be assessed against the Government, the contractor agrees to indemnify the Government for this liability. This requirement shall be placed in all subcontracts awarded by the contractor under this contract. The provisions of this clause are limited to liabilities not otherwise addressed by other provisions of this contract.

H.36 COMPLIANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL REQUIREMENTS

In performing work under this contract, the Contractor shall comply with all relevant federal, state, and local statutes, ordinances, laws, and regulations.

H.37 LOBBYING RESTRICTION

The Contractor agrees that none of the funds obligated on this award shall be made available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete. This restriction is in addition to those prescribed elsewhere in statute and regulation.

A copy of the DOE "Lobbying Brochure" which provides a summary of the statutory and regulatory restrictions regarding lobbying activities for Federal Contractors can be found at

http://www.management.energy.gov/policy_guidance/1385.htm

H.38 TRAVEL AND PER DIEM COSTS

Costs incurred by Contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by Subchapter I of Chapter 57 of Title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any revision of such subchapter; and are allowable pursuant to the "Allowable Cost and Payment" clause, FAR 52.216-7.

Foreign travel shall be subject to DEAR 952.247-70.

H.39 COMPLIANCE WITH INTERNET VERSION 6 (IPv6) IN ACQUIRING INFORMATION TECHNOLOGY

This contract involves the acquisition of Information Technology (IT) that uses Internet Protocol (IP) technology. The contractor agrees that:

- (1) All deliverables that involve IT that uses IP (products, services, software, etc.) will comply with IPv6 standards and interoperate with both IPv6 and IPv4 systems and products; and
- (2) it has IPv6 technical support for development and implementation and fielded product management available.

Should the contractor find that the statement of work or specifications of this contract do not conform to the IPv6 standard, it must notify the Contracting Officer of such nonconformance and act in accordance with instructions of the Contracting Officer.

H.40 AUTOMATIC DATA PROCESSING EQUIPMENT (ADPE) USAGE

ADPE requirements which were not included in the Contractor's original proposal may not be acquired (leased or purchased) without the prior written consent of the Contracting Officer. Whenever Contracting Officer written consent is required, the Contractor will furnish to the Contracting Officer information concerning the need for and selection of such ADPE, the specific make(s) and model(s), and the lease versus purchase determination.

H.41 AUTOMATIC DATA PROCESSING EQUIPMENT (ADPE) LEASING

If the Contractor leases ADPE equipment for use under this contract, the Contractor shall include a provision in the rental contract stating that the Government shall have the unilateral right to exercise any purchase option under the rental contract between the Contractor and the ADPE equipment vendor and to realize any other benefits earned through rental payments.

H.42 LIMITATION ON SOFTWARE

The Contractor shall not violate license agreements (express or implied), copy, change (with the exception of vendor-supplied updates or maintenance requirements), or release to a third party, Government-furnished software, including other vendors' proprietary software, for any purpose other than that for which it was provided to the Contractor under the terms of this contract.

Unless provided as Government-furnished software, the Contractor shall not use software in which the Contractor holds proprietary rights, or rights as a licensee, without the prior written authorization of the Contracting Officer or designee.

The Contractor agrees not to restrict the design and development of software in such a fashion that it shall unreasonably favor specific vendor hardware and software.

H.43 CRADA SUBJECT INVENTIONS

CRADA Subject Inventions (*Applicable to Nonprofit entities and small businesses only*)

The contractor agrees that, upon written application by DOE/NETL, it will enter into good faith negotiations to license to DOE/NETL or to the CRADA participant(s), as appropriate, an exclusive license(s) in the field of use negotiated by DOE/NETL for any CRADA subject invention(s) on terms that are reasonable under the circumstances.

H.44 OVERTIME APPROVALS

No overtime is authorized to be utilized on this contract without the express written consent of the Contracting Officer. In the event the Contractor determines performance under this contract will require the use of overtime, the Contractor shall submit an overtime use plan (projection of overtime for the contract year) to the Contracting Officer for consideration and approval. If approved, this clause will be modified to incorporate the approved overtime as a not to exceed ceiling: The approvals required under this clause do not apply to the exceptions in FAR 52.222-2 Payment for Overtime Premiums subparagraph (a)(1) through (a)(4) of the clause.

H.45 BERYLLIUM CONSIDERATIONS FOR WORK CONDUCTED AT NETL-ALBANY

Several locations on NETL's Albany, Oregon site (NETL-Albany) have levels of beryllium dust that, if disturbed, could be released into the air at or above the contamination levels specified in the code of federal regulations at 10 CFR Part 850, section 850.31. Beryllium-contaminated rooms and laboratory spaces are located throughout NETL-Albany and are clearly marked with warning signs and/or labels as required in 10 CFR § 850.38.

Beryllium remediation is ongoing at NETL-Albany. Remediation is expected to be completed prior to the effective date of this contract. In the event that remediation is not completed prior to the effective date of this contract, the contractor must comply with this provision.

Contractor employees, including subcontractors, are restricted from beryllium-contaminated areas unless access is specifically required under the contract. NETL shall identify, by building and room number, the locations of proposed work in a beryllium-contaminated area. If NETL determines that the contractor will require access to any beryllium-contaminated areas, the contractor is required to take the following steps, prior to work being performed in those areas.

NOTE: Steps 1 and 2 must occur before the contractor employees report for work at NETL-Albany. Steps 3 and 4 must be completed before any work is started.

1. The individual(s) required to access the rooms identified as contaminated must have a Beryllium Lymphocyte Proliferation Test (BeLPT) with normal results. The contractor shall arrange for the testing of its employees. The cost of this test will be borne by the contractor as part of the contract costs. This test will identify individuals with an elevated sensitivity or a sensitization to beryllium, and those individuals will not be permitted to enter that location. (Note: The BeLPT takes from 2-4 weeks for results to be obtained.) Prior to the commencement of any work requiring access to any beryllium-contaminated room/laboratory, the contractor shall provide a written certification to the COR or the COTR stating that all employees were tested and have a normal or negative BeLPT result.
2. The individual(s) must be medically cleared and trained to use respiratory personal protective equipment provided by the contractor. Prior to the commencement of the work, the contractor shall include in its written certification in numbered paragraph 1 above, a statement further indicating that its employees are medically cleared to perform the necessary work and are trained on the proper use of respiratory personal protective equipment.
3. The individual(s) must take the beryllium awareness training provided by NETL-Albany and have a passing score of 80% before beginning work in any beryllium-contaminated areas.
4. A job hazard analysis will be completed by NETL-Albany for the contractor for all work that takes place in beryllium-contaminated rooms and laboratory spaces. This requires the contractor to submit a detailed job safety plan and other precautionary planning documentation before being approved to work in the subject area(s).

H.46 FOCUSED STANDARDS LIST

The Contractor shall adhere to all applicable NETL ES&H Focused Standards as indicated in the Focused Standards list which is currently posted on the SSC electronic reading room located at <http://www.netl.doe.gov/business/solicitations/ssc2008/index.html> . This list may be modified from time to time during the contract. After contract award, the list will be available at the following NETL Intranet site: <http://intranet/project/ESHINFO/standard/focused.pdf>. This Focused Standards List has been primarily derived from selected Standard References contained in NETL issued directives. It should not be construed that all of the standards on the list would be applicable to operations required under this contract.

H.47 SPECIAL PROVISIONS RELATED TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (APR 2009)

H.999 Special provisions relating to work funded under American Recovery and Reinvestment Act of 2009 (Apr 2009)

Preamble:

Work performed under this contract will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act or Act). The Recovery Act's purposes are to stimulate the economy and to create and retain jobs. The Act gives preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds made available by it for activities that can be initiated not later than June 17, 2009.

Contractors should begin planning activities for their first tier subcontractors, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related Guidance. For projects funded by sources other than the Recovery Act, Contractors should plan to keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning the how and where for the new reporting requirements. The Contractor will be provided these details as they become available. The Contractor must comply with all requirements of the Act. If the contractor believes there is any inconsistency between ARRA requirements and current contract requirements, the issues will be referred to the Contracting Officer for reconciliation.

Be advised that special provisions may apply to projects funded by the Act relating to:

- Reporting, tracking and segregation of incurred costs;
- Reporting on job creation and preservation;
- Publication of information on the Internet;
- Protecting whistleblowers; and
- Requiring prompt referral of evidence of a false claim to the Inspector General.

Definitions:

For purposes of this clause, "Covered Funds" means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the contract and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to Covered Funds – the contractor or subcontractor, as the case may be, if the contractor or subcontractor is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Covered Funds; or with respect to Covered Funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

A. Flow Down Provision

This clause must be included in every first-tier subcontract.

B. Segregation and Payment of Costs

Contractor must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects. Where Recovery Act funds are authorized to be used in conjunction with other funding to complete projects, tracking and reporting must be separate from the original funding source to meet the reporting requirements of the Recovery Act and OMB Guidance.

Invoices must clearly indicate the portion of the requested payment that is for work funded by the Recovery Act.

C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

D. Wage Rates

All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code. See <http://www.dol.gov/esa/whd/contracts/dbra.htm> .

E. Publication

Information about this agreement will be published on the Internet and linked to the website www.recovery.gov , maintained by the Accountability and Transparency Board (the Board). The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

F. Registration requirements

Contractor shall ensure that all first-tier subcontractors have a DUNS number and are registered in the Central Contractor Registration (CCR) no later than the date the first report is due.

G. Utilization of Small Business

Contractor shall to the maximum extent practicable give a preference to small business in the award of subcontracts for projects funded by Recovery Act dollars.

PART II SECTION I - CONTRACT CLAUSES

I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

Federal Acquisition Regulations (Clauses starting with 52): <http://www.arnet.gov/far/index.html>
Department of Energy Regulations (Clauses starting with 952): <http://management.energy.gov/DEAR.htm>

I.2 52.202-1 DEFINITIONS. (JUL 2004)

(a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless--

- (1) The solicitation, or amended solicitation, provides a different definition;
- (2) The contracting parties agree to a different definition;
- (3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
- (4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acqnet.gov> at the end of the FAR, after the FAR Appendix.

I.3 952.202-1 DEFINITIONS.

(a) As prescribed in 902.200, insert the clause at FAR 52.202-1 in all contracts. The Contracting Officer shall substitute the following for paragraph (a) of the clause.

(a) Head of Agency means: (i) The Secretary; (ii) Deputy Secretary; (iii) Under Secretaries of the Department of Energy and (iiii) the Chairman, Federal Energy Regulatory Commission.

(b) The following shall be added as paragraphs (h) and (i) except that they will be designated paragraphs (g) and (h) if Alternate I of the FAR clause is used.

(h) The term DOE means the Department of Energy, FERC means the Federal Energy Regulatory Commission, and NNSA means the National Nuclear Security Administration.

(i) The term Senior Procurement Executive means, for DOE:

Department of Energy--Director, Office of Procurement and Assistance Management, DOE;

National Nuclear Security Administration--Administrator for Nuclear Security, NNSA; and

Federal Energy Regulatory Commission--Chairman, FERC.

I.4 52.203-3 GRATUITIES. (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing,

the agency head or a designee determines that the Contractor, its agent, or another representative -

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) of this clause, the Government is entitled -

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This paragraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

I.5 52.203-5 COVENANT AGAINST CONTINGENT FEES. (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

I.6 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT. (SEP 2006)

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed the simplified acquisition threshold.

I.7 52.203-7 ANTI-KICKBACK PROCEDURES. (JUL 1995)

(a) *Definitions.*

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract..

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from -

- (1) Providing or attempting to provide or offering to provide any kickback;
- (2) Soliciting, accepting, or attempting to accept any kickback; or
- (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including paragraph (c)(5) but excepting paragraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

I.8 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY. (JAN 1997)

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may -

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which -

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either -

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

I.9 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY. (JAN 1997)

(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27(a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.

(b) The price or fee reduction referred to in paragraph (a) of this clause shall be -

- (1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;
 - (2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract;
 - (3) For cost-plus-award-fee contracts -
 - (i) The base fee established in the contract at the time of contract award;
 - (ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.
 - (4) For fixed-price-incentive contracts, the Government may -
 - (i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or
 - (ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.
 - (5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.
- (c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.
- (d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

I.10 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS. (SEP 2007)

(a) Definitions. As used in this clause--

"Agency" means "executive agency" as defined in Federal Acquisition Regulation (FAR) 2.101.

"Covered Federal action" means any of the following actions:

- (1) Awarding any Federal contract.
- (2) Making any Federal grant.
- (3) Making any Federal loan.

(4) Entering into any cooperative agreement.

(5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaskan Natives.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

(1) An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.

(2) A member of the uniformed services, as defined in subsection 101(3), Title 37, United States Code.

(3) A special Government employee, as defined in section 202, Title 18, United States Code.

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

"Reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient" includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

"Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition. 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal actions. In accordance with 31 U.S.C. 1352, the Contractor shall not use appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of this contractor the extension, continuation, renewal, amendment, or modification of this contract.

(1) The term appropriated funds does not include profit or fee from a covered Federal action.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds.

(c) Exceptions. The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) Agency and legislative liaison by Contractor employees. (i) Payment of reasonable compensation made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions that are not related to a specific solicitation for any covered Federal action, but that concern--

(A) The qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities; or

(B) The application or adaptation of the person's products or services for an agency's use.

(iii) Providing prior to formal solicitation of any covered Federal action any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(iv) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(v) Making capability presentations prior to formal solicitation of any covered Federal action by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub.L. 95-507, and subsequent amendments.

(2) Professional and technical services. (i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by

or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(iii) As used in paragraph (c)(2) of this clause, "professional and technical services" are limited to advice and analysis directly applying any professional or technical discipline (for examples, see FAR 3.803(a)(2)(iii)).

(iv) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(3) Only those communications and services expressly authorized by paragraphs (c)(1) and (2) of this clause are permitted.

(d) Disclosure. (1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its offer, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor shall complete and submit OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL (name and address of lobbying registrant or individuals performing services), the Contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.

(e) Penalties. (1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C.1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(f) Cost allowability. Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(g) Subcontracts. (1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract exceeding \$100,000 under this contract. The Contractor or subcontractor that awards the subcontract shall retain the declaration.

(2) A copy of each subcontractor disclosure form (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall, at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor, submit to the

Contracting Officer within 30 days a copy of all disclosures. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding \$100,000.

1.11 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT, (DEC 2008)

(a) *Definitions.* As used in this clause—

“Agent” means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

“Full cooperation”—

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require—

(i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Contractor from—

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment; and similar positions).

“Subcontract” means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

“United States,” means the 50 States, the District of Columbia, and outlying areas.

(b) *Code of business ethics and conduct.*

(1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall—

(i) Have a written code of business ethics and conduct; and

(ii) Make a copy of the code available to each employee engaged in performance of the

contract.

(2) The Contractor shall—

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3) (i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed—

- (A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or
- (B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR 2.101. The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system shall—

- (A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including—

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the

contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' Contracting Officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts.*

(1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5,000,000 and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

I.12 952.203-70 WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES. (DEC 2000)

(a) The contractor shall comply with the requirements of "DOE Contractor Employee Protection Program" at 10 CFR part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

(b) The contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

I.13 952.204-2 SECURITY. (MAY 2002)

(a) Responsibility. It is the contractor's duty to safeguard all classified information, special nuclear material, and other DOE property. The contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified information and protecting against sabotage, espionage, loss or theft of the classified documents and material in the contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter in the possession of the contractor or any person under the contractor's control in connection with performance of this contract. If retention by the contractor of any classified matter is required after the completion or termination of the contract, the contractor shall identify the items and types or categories of matter proposed for retention, the reasons for the retention of the matter, and the proposed period of retention. If the retention is approved by the Contracting Officer, the security provisions of the contract shall continue to be applicable to the matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.

(b) Regulations. The contractor agrees to comply with all security regulations and requirements of DOE in effect on the date of award.

(c) Definition of classified information. The term "classified information" means Restricted Data, Formerly Restricted Data, or National Security Information.

(d) Definition of restricted data. The term "Restricted Data" means all data concerning (1) design,

manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

(e) Definition of formerly restricted data. The term "Formerly Restricted Data" means all data removed from the Restricted Data category under section 142 d. of the Atomic Energy Act of 1954, as amended.

(f) Definition of National Security Information. The term "National Security Information" means any information or material, regardless of its physical form or characteristics, that is owned by, produced for or by, or is under the control of the United States Government, that has been determined pursuant to Executive Order 12356 or prior Orders to require protection against unauthorized disclosure, and which is so designated.

(g) Definition of Special Nuclear Material (SNM). SNM means: (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(h) Security clearance of personnel. The contractor shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12356, and the DOE's regulations or requirements applicable to the particular level and category of classified information to which access is required.

(i) Criminal liability. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the contractor or any person under the contractor's control in connection with work under this contract, may subject the contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and E.O. 12356.)

(j) Foreign Ownership, Control or Influence.

(1) The Contractor shall immediately provide the cognizant security office written notice of any change in the extent and nature of foreign ownership, control or influence over the Contractor which would affect any answer to the questions presented in the Certificate Pertaining to Foreign Interests, Standard Form 328 or the Foreign Ownership, Control or Influence questionnaire executed by the Contractor prior to the award of this contract. In addition, any notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice shall also be furnished concurrently to the Contracting Officer.

(2) If a Contractor has changes involving foreign ownership, control or influence, DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, DOE will consider proposals made by the Contractor to avoid or mitigate foreign influences.

(3) If the cognizant security office at any time determines that the Contractor is, or is potentially, subject to foreign ownership, control or influence, the Contractor shall comply with such instructions as the Contracting Officer shall provide in writing to safeguard any classified information or special nuclear material.

(4) The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph, in all subcontracts under this contract that will require subcontractor employees to possess access authorizations. Additionally, the Contractor must require subcontractors to have an existing DOD or DOE Facility Clearance or submit a completed

Certificate Pertaining to Foreign Interests, Standard Form 328, required in DEAR 952.204-73 prior to award of a subcontract. Information to be provided by a subcontractor pursuant to this clause may be submitted directly to the Contracting Officer. For purposes of this clause, subcontractor means any subcontractor at any tier and the term "Contracting Officer" means the DOE Contracting Officer. When this clause is included in a subcontract, the term "Contractor" shall mean Subcontractor and the term "contract" shall mean subcontract.

(5) The Contracting Officer may terminate this contract for default either if the Contractor fails to meet obligations imposed by this clause or if the Contractor creates a FOCI situation in order to avoid performance or a termination for default. The Contracting Officer may terminate this contract for convenience if the Contractor becomes subject to FOCI and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the FOCI problem.

I.14 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER. (AUG 2000)

(a) *Definitions.* As used in this clause -

"Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of "recovered material." For paper and paper products, postconsumer material means "postconsumer fiber" defined by the U.S. Environmental Protection Agency (EPA) as -

- (1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or
- (2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not
- (3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

"Printed or copied double-sided" means printing or reproducing a document so that information is on both sides of a sheet of paper.

"Recovered material," for paper and paper products, is defined by EPA in its Comprehensive Procurement Guideline as "recovered fiber" and means the following materials:

- (1) Postconsumer fiber; and
- (2) Manufacturing wastes such as -
 - (i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
 - (ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.

(b) In accordance with Section 101 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, the Contractor is encouraged

to submit paper documents, such as offers, letters, or reports, that are printed or copied double-sided on recycled paper that meet minimum content standards specified in Section 505 of Executive Order 13101, when not using electronic commerce methods to submit information or data to the Government.

(c) If the Contractor cannot purchase high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock meeting the 30 percent postconsumer material standard for use in submitting paper documents to the Government, it should use paper containing no less than 20 percent postconsumer material. This lesser standard should be used only when paper meeting the 30 percent postconsumer material standard is not obtainable at a reasonable price or does not meet reasonable performance standards.

I.15 52.204-7 CENTRAL CONTRACTOR REGISTRATION. (APR 2008)

(a) Definitions. As used in this clause--

“Central Contractor Registration (CCR) database” means the primary Government repository for Contractor information required for the conduct of business with the Government.

“Data Universal Numbering System (DUNS) number” means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

“Data Universal Numbering System +4 (DUNS+4) number” means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

“Registered in the CCR database” means that--

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record "Active". The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number--

(i) Via the Internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)(1)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the

"Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

I.16 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL. (SEP 2007)

(a) The Contractor shall comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24, and Federal Information Processing Standards Publication (FIPS PUB) Number 201.

(b) The Contractor shall insert this clause in all subcontracts when the subcontractor is required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system.

I.17 952.204-70 CLASSIFICATION/DECLASSIFICATION. (SEP 1997)

In the performance of work under this contract, the contractor or subcontractor shall comply with all provisions of the Department of Energy's regulations and mandatory DOE directives which apply to work involving the classification and declassification of information, documents, or material. In this section, "information" means facts, data, or knowledge itself; "document" means the physical medium on or in which information is recorded; and "material" means a product or substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is "Restricted Data" and "Formerly Restricted Data" (classified under the Atomic Energy Act of 1954, as amended) and "National Security Information" (classified under Executive Order 12958 or prior Executive Orders). The original decision to classify or declassify information is considered an inherently Governmental function. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other personnel (Government or contractor) may serve as derivative classifiers which involves making classification decisions based upon classification guidance which reflect decisions made by Federal Government Original Classifiers.

The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a Federal Government or a Contractor Derivative Classifier in accordance with classification regulations including mandatory DOE directives and classification/declassification guidance furnished to the contractor by the Department of Energy to determine whether it contains classified information prior to dissemination. For information which is not addressed in classification/declassification guidance, but whose sensitivity appears to warrant classification, the contractor or subcontractor shall ensure that such information is reviewed by a Federal Government Original Classifier.

In addition, the contractor or subcontractor shall ensure that existing classified documents (containing either Restricted Data or Formerly Restricted Data or National Security Information) which are in its possession or under its control are periodically reviewed by a Federal Government or Contractor Derivative Classifier in accordance with classification regulations, mandatory DOE directives and classification/declassification guidance furnished to the contractor by the Department of Energy to determine if the documents are no longer appropriately classified. Priorities for declassification review of classified documents shall be based on the degree of public and researcher interest and the likelihood of declassification upon review. Documents which no longer contain classified information are to be declassified. Declassified documents then shall be reviewed to determine if they are publicly

releasable. Documents which are declassified and determined to be publicly releasable are to be made available to the public in order to maximize the public's access to as much Government information as possible while minimizing security costs.

The contractor or subcontractor shall insert this clause in any subcontract which involves or may involve access to classified information.

I.18 952.204-73 FACILITY CLEARANCE. (MAY 2002)

Notices

Section 2536 of title 10, United States Code, prohibits the award of a contract under a national security program to an entity controlled by a foreign government if it is necessary for that entity to be given access to information in a proscribed category of information in order to perform the contract unless a waiver is granted by the Secretary of Energy. In addition, a Facility Clearance and foreign ownership, control and influence (FOCI) information are required when the contract or subcontract to be awarded is expected to require employees to have access authorizations.

Offerors who have either a Department of Defense or a Department of Energy Facility Clearance generally need not resubmit the following foreign ownership information unless specifically requested to do so. Instead, provide your DOE Facility Clearance code or your DOD assigned commercial and government entity (CAGE) code. If uncertain, consult the office which issued this solicitation.

(a) Use of Certificate Pertaining to Foreign Interests, Standard Form 328.

(1) The contract work anticipated by this solicitation will require access to classified information or special nuclear material. Such access will require a Facility Clearance for the Contractor organization and access authorizations (security clearances) for Contractor personnel working with the classified information or special nuclear material. To obtain a Facility Clearance the offeror must submit a Certificate Pertaining to Foreign Interests, Standard Form 328, and all required supporting documents to form a complete Foreign Ownership, Control or Influence (FOCI) Package.

(2) Information submitted by the offeror in response to the Standard Form 328 will be used solely for the purposes of evaluating foreign ownership, control or influence and will be treated by DOE, to the extent permitted by law, as business or financial information submitted in confidence.

(3) Following submission of a Standard Form 328 and prior to contract award, the Contractor shall immediately submit to the Contracting Officer written notification of any changes in the extent and nature of FOCI which could affect the offeror's answers to the questions in Standard Form 328. Following award of a contract, the Contractor must immediately submit to the cognizant security office written notification of any changes in the extent and nature of FOCI which could affect the offeror's answers to the questions in Standard Form 328. Notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice must also be furnished concurrently to the cognizant security office.

(b) Definitions.

(1) Foreign Interest means any of the following:

(i) A foreign government, foreign government agency, or representative of a foreign government;

(ii) Any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the United States or its possessions and trust

territories; and

(iii) Any person who is not a citizen or national of the United States.

(2) Foreign Ownership, Control, or Influence (FOCI) means the situation where the degree of ownership, control, or influence over a Contractor by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information or special nuclear material may result.

(c) Facility Clearance means an administrative determination that a facility is eligible to access, produce, use or store classified information, or special nuclear material. A Facility Clearance is based upon a determination that satisfactory safeguards and security measures are carried out for the activities being performed at the facility. It is DOE policy that all Contractors or Subcontractors requiring access authorizations be processed for a Facility Clearance at the level appropriate to the activities being performed under the contract. Approval for a Facility Clearance shall be based upon:

(1) A favorable foreign ownership, control, or influence (FOCI) determination based upon the Contractor's response to the ten questions in Standard Form 328 and any required, supporting data provided by the Contractor;

(2) A contract or proposed contract containing the appropriate security clauses;

(3) Approved safeguards and security plans which describe protective measures appropriate to the activities being performed at the facility;

(4) An established Reporting Identification Symbol code for the Nuclear Materials Management and Safeguards Reporting System if access to nuclear materials is involved;

(5) A survey conducted no more than 6 months before the Facility Clearance date, with a composite facility rating of satisfactory, if the facility is to possess classified matter or special nuclear material at its location;

(6) Appointment of a Facility Security Officer, who must possess or be in the process of obtaining an access authorization equivalent to the Facility Clearance; and, if applicable, appointment of a Materials Control and Accountability Representative; and

(7) Access authorizations for key management personnel who will be determined on a case-by-case basis, and must possess or be in the process of obtaining access authorizations equivalent to the level of the Facility Clearance.

(d) A Facility Clearance is required prior to the award of a contract requiring access to classified information and the granting of any access authorizations under a contract. Prior to award of a contract, the DOE must determine that award of the contract to the offeror will not pose an undue risk to the common defense and security as a result of its access to classified information or special nuclear material in the performance of the contract. The Contracting Officer may require the offeror to submit such additional information as deemed pertinent to this determination.

(e) A Facility Clearance is required even for contracts that do not require the Contractor's corporate offices to receive, process, reproduce, store, transmit, or handle classified information or special nuclear material, but which require DOE access authorizations for the Contractor's employees to perform work at a DOE location. This type facility is identified as a non-possessing facility.

(f) Except as otherwise authorized in writing by the Contracting Officer, the provisions of any resulting contract must require that the contractor insert provisions similar to the foregoing in all subcontracts and purchase orders. Any Subcontractors requiring access authorizations for access to classified information or special nuclear material shall be directed to provide responses to the questions in Standard Form 328,

Certificate Pertaining to Foreign Interests, directly to the prime contractor or the Contracting Officer for the prime contract.

Notice to Offerors--Contents Review (Please Review Before Submitting)

Prior to submitting the Standard Form 328, required by paragraph (a)(1) of this clause, the offeror should review the FOCI submission to ensure that:

- (1) The Standard Form 328 has been signed and dated by an authorized official of the company;
- (2) If publicly owned, the Contractor's most recent annual report, and its most recent proxy statement for its annual meeting of stockholders have been attached; or, if privately owned, the audited, consolidated financial information for the most recently closed accounting year has been attached;
- (3) A copy of the company's articles of incorporation and an attested copy of the company's by-laws, or similar documents filed for the company's existence and management, and all amendments to those documents;
- (4) A list identifying the organization's owners, officers, directors, and executive personnel, including their names, social security numbers, citizenship, titles of all positions they hold within the organization, and what clearances, if any, they possess or are in the process of obtaining, and identification of the government agency(ies) that granted or will be granting those clearances; and
- (5) A summary FOCI data sheet.

Note: A FOCI submission must be attached for each tier parent organization (i.e. ultimate parent and any intervening levels of ownership). If any of these documents are missing, award of the contract cannot be completed.

I.19 952.204-76 CONDITIONAL PAYMENT OF FEE OR PROFIT--SAFEGUARDING RESTRICTED DATA AND OTHER CLASSIFIED INFORMATION. (JAN 2004)

(a) General. (1) The payment of fee or profit (i.e., award fee, fixed fee, and incentive fee or profit) under this contract is dependent upon the contractor's compliance with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information (i.e., Formerly Restricted Data and National Security Information) including compliance with applicable law, regulation, and DOE directives. The term "contractor" as used in this clause to address failure to comply shall mean "contractor or contractor employee."

(2) In addition to other remedies available to the Government, if the contractor fails to comply with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information, the Contracting Officer may unilaterally reduce the amount of fee or profit that is otherwise payable to the contractor in accordance with the terms and conditions of this clause.

(3) Any reduction in the amount of fee or profit earned by the contractor will be determined by the severity of the contractor's failure to comply with contract terms and conditions relating to the safeguarding of Restricted data or other classified information pursuant to the degrees specified in paragraph (c) of this clause.

(b) Reduction Amount. (1) If in any period (see 48 CFR 952.204-76 (b)(2)) it is found that the contractor has failed to comply with contract terms and conditions relating to the safeguarding of Restricted Data or other classified information, the contractor's fee or profit of the period may be reduced. Such reduction shall not be less than 26 percent nor greater than 100 percent of the total fee or profit earned for a first degree performance failure, not less than 11 percent nor greater than 25 percent for a second degree performance failure, and up to 10 percent for a third degree performance failure. The Contracting Officer

must consider mitigating factors that may warrant a reduction below the specified range (see 48 CFR 904.402(c)). The mitigating factors include, but are not limited to, the following:

- (i) Degree of control the contractor had over the event or incident.
- (ii) Efforts the contractor had made to anticipate and mitigate the possibility of the event in advance.
- (iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.
- (iv) General status (trend and absolute performance) of safeguarding Restricted Data and other classified information and compliance in related security areas.

(2)(i) Except in the case of performance-based firm-fixed-price contracts (see paragraph (b)(3) of this clause), the Contracting Officer, for purposes of this clause, will at the time of contract award, or as soon as practicable thereafter, allocate the total amount of fee or profit that is available under this contract to equal periods of [insert 6 or 12] months to run sequentially for the entire term of the contract (i.e., from the effective date of the contract to the expiration date of the contract, including all options). The amount of fee or profit to be allocated to each period shall be equal to the average monthly fee or profit that is available or otherwise payable during the entire term of the contract, multiplied by the number of months established above for each period.

(ii) Under this clause, the total amount of fee or profit that is subject to reduction in a period in which a performance failure occurs, in combination with any reduction made under any other clause in the contract that provides for a reduction to the fee or profit, shall not exceed the amount of fee or profit that is earned by the contractor in the period established pursuant to paragraph (b)(2)(i) of this clause.

(3) For performance-based firm-fixed-price contracts, the Contracting Officer will at the time of contract award include negative monetary incentives in the contract for contractor violations relating to the safeguarding of Restricted Data and other classified information.

(c) Safeguarding Restricted Data and Other Classified Information. Performance failures occur if the contractor does not comply with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information. The degrees of performance failures relating to the contractor's obligations under this contract for safeguarding of Restricted Data and other classified information are as follows:

(1) First Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:

- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating a risk of, loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of information in a Special Access Program (SAP), information identified as sensitive compartmented information (SCI), or high risk nuclear weapons-related data.
- (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(2) Second Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Secret Restricted Data or other information classified as Secret.

(ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Secret Restricted Data, or other information classified as Secret.

(iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Restricted Data or other information regardless of classification (except for information covered by paragraph (c)(1)(iii) of this clause).

(iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Secret Restricted Data or other information classified as Secret.

(3) Third Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security. In addition, this category includes performance failures that result from a lack of contractor management and/or employee attention to the proper safeguarding of Restricted Data and other classified information. These performance failures may be indicators of future, more severe performance failures and/or conditions, and if identified and corrected early would prevent serious incidents. The following are examples of performance failures or performance failures of similar import that will be considered third degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other information classified as Confidential.

(ii) Failure to promptly report alleged or suspected violations of laws, regulations, or directives pertaining to the safeguarding of Restricted Data or other classified information.

(iii) Failure to identify or timely execute corrective actions to mitigate or eliminate identified vulnerabilities and reduce residual risk relating to the protection of Restricted Data or other classified information in accordance with the contractor's Safeguards and Security Plan or other security plan, as applicable.

(iv) Contractor actions that result in performance failures which unto themselves pose

minor risk, but when viewed in the aggregate indicate degradation in the integrity of the contractor's safeguards and security management system relating to the protection of Restricted Data and other classified information.

I.20 970.5223-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES. (DEC 2000)

(a) Program Implementation. The contractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program.

(b) Remedies. In addition to any other remedies available to the Government, the contractor's failure to comply with the requirements of 10 CFR part 707 or to perform in a manner consistent with its approved program may render the contractor subject to: the suspension of contract payments, or, where applicable, a reduction in award fee; termination for default; and suspension or debarment.

(c) Subcontracts. (1) The contractor agrees to notify the Contracting Officer reasonably in advance of, but not later than 30 days prior to, the award of any subcontract the contractor believes may be subject to the requirements of 10 CFR part 707.

(2) The DOE prime contractor shall require all subcontracts subject to the provisions of 10 CFR part 707 to agree to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, as a condition for award of the subcontract. The DOE prime contractor shall review and approve each subcontractor's program, and shall periodically monitor each subcontractor's implementation of the program for effectiveness and compliance with 10 CFR part 707.

(3) The contractor agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR part 707.

I.21 52.208-9 CONTRACTOR USE OF MANDATORY SOURCES OF SUPPLY OR SERVICES. (OCT 2008)

(a) Certain supplies or services to be provided under this contract for use by the Government are required by law to be obtained from nonprofit agencies participating in the program operated by the Committee for Purchase From People Who Are Blind or Severely Disabled (the Committee) under the Javits-Wagner-O'Day Act (41 U.S.C. 48). Additionally, certain of these supplies are available from the Defense Logistics Agency (DLA), the General Services Administration (GSA), or the Department of Veterans Affairs (VA). The Contractor shall obtain mandatory supplies or services to be provided for Government use under this contract from the specific sources indicated in the contract schedule.

(b) The Contractor shall immediately notify the Contracting Officer if a mandatory source is unable to provide the supplies or services by the time required, or if the quality of supplies or services provided by the mandatory source is unsatisfactory. The Contractor shall not purchase the supplies or services from other sources until the Contracting Officer has notified the Contractor that the Committee or an AbilityOne central nonprofit agency has authorized purchase from other sources.

(c) Price and delivery information for the mandatory supplies is available from the Contracting Officer for the supplies obtained through the DLA/GSA/VA distribution facilities. For mandatory supplies or services that are not available from DLA/GSA/VA, price and delivery information is available from the appropriate central nonprofit agency. Payments shall be made directly to the source making delivery. Points of contact for AbilityOne central nonprofit agencies are:

(1) National Industries for the Blind
1310 Braddock Place

Alexandria, VA 22314-1691
(703) 310-0500; and

(2) NISH
8401 Old Courthouse Road
Vienna, VA 22182
(571) 226-4660.

I.22 952.208-70 PRINTING. (APR 1984)

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single unit, or no more than 25,000 units in the aggregate of multiple units, will not be deemed to be printing. A unit is defined as one sheet, size 8 1/2 by 11 inches one side only, one color. A requirement is defined as a single publication document.

(1) The term "printing" includes the following processes: composition, plate making, presswork, binding, microform publishing, or the end items produced by such processes.

(2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the Contracting Officer in writing and obtain the Contracting Officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Office (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.

(3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).

I.23 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT. (SEP 2006)

(a) The Government suspends or debar Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of \$30,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$30,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the Excluded Parties List System). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its

inclusion in the Excluded Parties List System.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

I.24 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST. (JUN 1997)

(a) Purpose. The purpose of this clause is to ensure that the contractor (1) is not biased because of its financial, contractual, organizational, or other interests which relate to the work under this contract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) Scope. The restrictions described herein shall apply to performance or participation by the contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "contractor") in the activities covered by this clause as a prime contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.

(1) Use of Contractor's Work Product.

(i) The contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefore (solicited and unsolicited) which stem directly from the contractor's performance of work under this contract for a period of three (3) years after the completion of this contract. Furthermore, unless so directed in writing by the Contracting Officer, the Contractor shall not perform any advisory and assistance services work under this contract on any of its products or services or the products or services of another firm if the contractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the contractor from competing for follow-on contracts for advisory and assistance services.

(ii) If, under this contract, the contractor prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, the contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restriction in this subparagraph shall not apply.

(iii) Nothing in this paragraph shall preclude the contractor from offering or selling its standard and commercial items to the Government.

(2) Access to and use of information.

(i) If the contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data which has not been released or otherwise made available to the public, the contractor agrees that without prior written approval of the Contracting Officer it shall not:

(A) use such information for any private purpose unless the information has been released or otherwise made available to the public;

(B) compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract or until such

information is released or otherwise made available to the public, whichever is first;

(C) submit an unsolicited proposal to the Government which is based on such information until one year after such information is released or otherwise made available to the public; and

(D) release such information unless such information has previously been released or otherwise made available to the public by the Department.

(ii) In addition, the contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.

(iii) The contractor may use technical data it first produces under this contract for its private purposes consistent with paragraphs (b)(2)(i) (A) and (D) of this clause and the patent, rights in data, and security provisions of this contract.

(c) Disclosure after award.

(1) The contractor agrees that, if changes, including additions, to the facts disclosed by it prior to award of this contract, occur during the performance of this contract, it shall make an immediate and full disclosure of such changes in writing to the Contracting Officer. Such disclosure may include a description of any action which the contractor has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interest of the Government.

(2) In the event that the contractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the Contracting Officer, DOE may terminate this contract for default.

(d) Remedies. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this contract, including the existence of an actual or potential organizational conflict of interest at the time of or after award, the Government may terminate the contract for default, disqualify the contractor from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract.

(e) Waiver. Requests for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the Contracting Officer may grant such a waiver in writing.

I.25 52.215-2 AUDIT AND RECORDS - NEGOTIATION. (JUN 1999)

(a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) *Examination of costs.* If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in

performing the contract.

(c) *Cost or pricing data.* If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to -

- (1) The proposal for the contract, subcontract, or modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the contract, subcontract, or modification; or
- (4) Performance of the contract, subcontract or modification.

(d) *Comptroller General* - (1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

- (2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) *Reports.* If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating -

- (1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and
- (2) The data reported.

(f) *Availability.* The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition -

- (1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and
- (2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and -

- (1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;
- (2) For which cost or pricing data are required; or
- (3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

I.26 52.215-8 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT. (OCT 1997)

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

- (a) The Schedule (excluding the specifications).
- (b) Representations and other instructions.
- (c) Contract clauses.
- (d) Other documents, exhibits, and attachments.
- (e) The specifications.

I.27 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA. (OCT 1997)

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because -

- (1) The Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;
- (2) A subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data; or
- (3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which -

- (1) The actual subcontract; or
- (2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(c)(1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

- (i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.
- (ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.
- (iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if -

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if -

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid -

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

I.28 52.215-12 SUBCONTRACTOR COST OR PRICING DATA. (OCT 1997)

(a) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

(b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either -

(1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause

requires submission of cost or pricing data for the subcontract; or

(2) The substance of the clause at FAR 52.215-13, Subcontractor Cost or Pricing Data - Modifications.

I.29 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS. (OCT 2004)

(a) The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined-benefit pension plan or otherwise recapture such pension fund assets.

(b) For segment closings, pension plan terminations, or curtailment of benefits, the amount of the adjustment shall be--

(1) For contracts and subcontracts that are subject to full coverage under the Cost Accounting Standards (CAS) Board rules and regulations (48 CFR Chapter 99), the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12); and

(2) For contracts and subcontracts that are not subject to full coverage under the CAS, the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12), except the numerator of the fraction at 48 CFR 9904.413-50(c)(12)(vi) shall be the sum of the pension plan costs allocated to all non-CAS covered contracts and subcontracts that are subject to Federal Acquisition Regulation (FAR) Subpart 31.2 or for which cost or pricing data were submitted.

(c) For all other situations where assets revert to the Contractor, or such assets are constructively received by it for any reason, the Contractor shall, at the Government's option, make a refund or give a credit to the Government for its equitable share of the gross amount withdrawn. The Government's equitable share shall reflect the Government's participation in pension costs through those contracts for which cost or pricing data were submitted or that are subject to FAR Subpart 31.2.

(d) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(g).

I.30 RESERVED

I.31 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS. (JUL 2005)

(a) The Contractor shall promptly notify the Contracting Officer in writing when the Contractor determines that it will terminate or reduce the benefits of a PRB plan.

(b) If PRB fund assets revert or inure to the Contractor, or are constructively received by it under a plan termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share as required by 31.205-6(o)(5) of the Federal Acquisition Regulation (FAR). When determining or agreeing on the method for recovery of the Government's equitable share, the contracting parties should consider the following methods: cost reduction, amortizing the credit over a number of years (with appropriate interest), cash refund, or some other agreed upon method. Should the parties be unable to agree on the method for recovery of the Government's equitable share, through good faith negotiations, the Contracting Officer shall designate the method of recovery.

(c) The Contractor shall insert the substance of this clause in all subcontracts that meet the applicability requirements of FAR 15.408(j).

I.32 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES. (OCT 1997)

(a) The Contractor shall make the following notifications in writing:

(1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.

(2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall -

(1) Maintain current, accurate, and complete inventory records of assets and their costs;

(2) Provide the ACO or designated representative ready access to the records upon request;

(3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and

(4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

(c) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

I.33 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS. (OCT 1997)

(a) *Exceptions from cost or pricing data.* (1) In lieu of submitting cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth at FAR 15.403-4 on the date of the agreement on price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable -

(i) *Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) *Information on modifications of contracts or subcontracts for commercial items.* (A) If -

(1) The original contract or subcontract was granted an exception from cost or pricing data requirements because the price agreed upon was based on adequate price competition or prices set by law or regulation, or was a contract or subcontract for the acquisition of a commercial item; and

(2) The modification (to the contract or subcontract) is not exempted based on one of these exceptions, then the Contractor may provide information to establish that the modification would not change the contract or subcontract from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

(B) For a commercial item exception, the Contractor shall provide, at a minimum, information on prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the

price of the modification. Such information may include -

(1) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), *e.g.*, wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities.

(2) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(3) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this clause, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

(b) *Requirements for cost or pricing data.* If the Contractor is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The Contractor shall submit cost or pricing data and supporting attachments in accordance with Table 15-2 of FAR 15.408.

(2) As soon as practicable after agreement on price, but before award (except for unpriced actions), the Contractor shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

I.34 52.216-7 ALLOWABLE COST AND PAYMENT. (DEC 2002)

(a) *Invoicing.* (1) The Government will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Federal Acquisition Regulation (FAR) subpart 31.2 in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains Alternate I to the clause at 52.232-25.

(3) The designated payment office will make interim payments for contract financing on the 30th day after the designated billing office receives a proper payment request.

In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(b) *Reimbursing costs.* (1) For the purpose of reimbursing allowable costs (except as provided in subparagraph (b)(2) of this clause, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only -

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for -

(A) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments determined due will be made -

(1) In accordance with the terms and conditions of a subcontract or invoice; and

(2) Ordinarily within 30 days of the submission of the Contractor's payment request to the Government;

(B) Materials issued from the Contractor's inventory and placed in the production process for use on the contract;

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

(F) Properly allocable and allowable indirect costs, as shown in the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of financing payments that have been paid by cash, check, or other forms of payment to subcontractors.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid unless -

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's indirect costs for payment purposes).

(3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) of this clause, allowable indirect costs under this contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) of this clause.

(4) Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor's expense or at no cost to the Government shall be disregarded for purposes of cost-reimbursement under this clause.

(c) *Small business concerns.* A small business concern may receive more frequent payments than every 2 weeks.

(d) *Final indirect cost rates.* (1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal.

(2)(i) The Contractor shall submit an adequate final indirect cost rate proposal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.

(ii) The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific indirect cost items treated as direct costs in the settlement, and (v) the affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

(4) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

(5) Within 120 days (or longer period if approved in writing by the Contracting Officer) after settlement of the final annual indirect cost rates for all years of a physically complete contract, the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

(6)(i) If the Contractor fails to submit a completion invoice or voucher within the time specified in paragraph (d)(5) of this clause, the Contracting Officer may--

(A) Determine the amounts due to the Contractor under the contract; and

(B) Record this determination in a unilateral modification to the contract.

(ii) This determination constitutes the final decision of the Contracting Officer in accordance with the Disputes clause.

(e) *Billing rates.* Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates -

(1) Shall be the anticipated final rates; and

(2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(f) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

(g) *Audit.* At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be -

(1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs; or

(2) Adjusted for prior overpayments or underpayments.

(h) *Final payment.* (1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (d)(5) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

(2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver -

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except -

(A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;

(B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and

(C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

I.35 952.216-7 ALLOWABLE COST AND PAYMENT.

Alternate I

If the contract is with a nonprofit organization, other than an educational institution; or a State or local government, modify the clause at FAR 52.216-7 Allowable Cost and Payment by deleting from paragraph (a) the phrase "Subpart 31.2" and substituting for it "Subpart 31.7."

Alternate II

When contracting with a commercial organization modify paragraph (a) of the clause at FAR 52.216-7 by adding the phrase "as supplemented by Subpart 931.2 of the Department of Energy Acquisition Regulations (DEAR)," after the acronym "(FAR)".

I.36 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS. (MAY 2004)

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) *Definitions.* As used in this contract -

"HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

"Service-disabled veteran-owned small business concern" -

(1) Means a small business concern -

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Small disadvantaged business concern" means a small business concern that represents, as part of its offer that -

(1) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, Subpart B;

(2) No material change in disadvantaged ownership and control has occurred since its certification;

(3) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(4) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

"Veteran-owned small business concern" means a small business concern -

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern -

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

I.37 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN. (APR 2008)

(a) This clause does not apply to small business concerns.

(b) *Definitions.* As used in this clause -

"Alaska Native Corporation (ANC)" means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

"Commercial item" means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

"Electronic Subcontracting Reporting System (eSRS)" means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

"Indian tribe" means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

"Individual contract plan" means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

"Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

"Subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of -

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to -

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Central Contractor Registration database (CCR), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in CCR as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of CCR as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with -

(i) Small business concerns (including ANC and Indian tribes);

- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;
- (iv) HUBZone small business concerns;
- (v) Small disadvantaged business concerns (including ANC and Indian tribes); and
- (vi) Women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$550,000 (\$1,000,000 for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will -

- (i) Cooperate in any studies or surveys as may be required;
- (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
- (iii) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (I) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;
- (iv) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;
- (v) Provide its prime contract number, its DUNS number, and the e-mail address of the Government or Contractor official responsible for acknowledging or rejecting the reports, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their reports; and
- (vi) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the e-mail address of the Government or Contractor official responsible for acknowledging or rejecting the reports, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source

lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., CCR), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating -

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and, if not, why not;

(F) Whether women-owned small business concerns were solicited and, if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact -

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through -

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each

subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting SBA.

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided -

(1) The master plan has been approved;

(2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one plan. When a modification meets the criteria in 19.702 for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-- Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with -

(1) The clause of this contract entitled "Utilization Of Small Business Concerns;" or

(2) An approved plan required by this clause, shall be a material breach of the contract.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe.

(1) ISR. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan and shall be submitted to the Administrative Contracting Officer (ACO) or Contracting Officer, if no ACO is assigned.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(iii) The authority to acknowledge receipt or reject the ISR resides--

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) SSR.

(i) Reports submitted under individual contract plans--

(A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the

subcontracts.

(B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$550,000 (over \$1,000,000 for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

(D) For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRs, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts.

(ii) Reports submitted under a commercial plan--

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(iii) All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a Year-End Supplementary Report for Small Disadvantaged Businesses. The report shall include subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. If the data are not available when the year-end SSR is submitted, the prime Contractor and/or subcontractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

I.38 52.219-16 LIQUIDATED DAMAGES - SUBCONTRACTING PLAN. (JAN 1999)

(a) "Failure to make a good faith effort to comply with the subcontracting plan", as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled, Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

I.39 952.219-70 DOE MENTOR-PROTEGE PROGRAM. (MAY 2000)

The Department of Energy has established a Mentor-Protege Program to encourage its prime contractors to assist firms certified under section 8(a) of the Small Business Act by SBA, other small disadvantaged businesses, women-owned small businesses, Historically Black Colleges and Universities and Minority Institutions, other minority institutions of higher learning and small business concerns owned and controlled by service disabled veterans in enhancing their business abilities. If the contract resulting from this solicitation is awarded on a cost-plus-award fee basis, the contractor's performance as a Mentor may be evaluated as part of the award fee plan. Mentor and Protege firms will develop and submit "lessons learned" evaluations to DOE at the conclusion of the contract. Any DOE contractor that is interested in becoming a Mentor should refer to the applicable regulations at 48 CFR 919.70 and should contact the Department of Energy's Office of Small and Disadvantaged Business Utilization.

I.40 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES. (FEB 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

I.41 52.222-2 PAYMENT FOR OVERTIME PREMIUMS. (JUL 1990)

(a) The use of overtime is authorized under this contract if the overtime premium does not exceed zero (0) or the overtime premium is paid for work -

(1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or

(4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall -

(1) Identify the work unit; *e.g.*, department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;

(2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;

(3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and

(4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

* Insert either "zero" or the dollar amount agreed to during negotiations. The inserted figure does not apply to the exceptions in subparagraph (a)(1) through (a)(4) of the clause.

I.42 52.222-3 CONVICT LABOR. (JUN 2003)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons--

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

I.43 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION. (JUL 2005)

(a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) *Payrolls and basic records.* (1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in

paragraphs (a) through (d) of this clause.

I.44 52.222-21 PROHIBITION OF SEGREGATED FACILITIES. (FEB 1999)

(a) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

I.45 52.222-26 EQUAL OPPORTUNITY. (MAR 2007)

(a) Definition. United States, as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b)(1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c)(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to -

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion;
- (iv) Transfer;
- (v) Recruitment or recruitment advertising;

- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

I.46 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. (SEP 2006)

(a) Definitions. As used in this clause--

All employment openings means all positions except executive and top management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

Executive and top management means any employee--

- (1) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;
- (2) Who customarily and regularly directs the work of two or more other employees;
- (3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight;
- (4) Who customarily and regularly exercises discretionary powers; and
- (5) Who does not devote more than 20 percent or, in the case of an employee of a retail or service establishment, who does not devote more than 40 percent of total hours of work in the work week to activities that are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this definition. This paragraph (5) does not apply in the case of an employee who is in sole charge of an establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which the individual is employed.

Other eligible veteran means any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

Positions that will be filled from within the Contractor's organization means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

Qualified special disabled veteran means a special disabled veteran who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such veteran holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Special disabled veteran means--

- (1) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability--
 - (i) Rated at 30 percent or more; or
 - (ii) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap (i.e., a significant impairment of the

veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests); or

(2) A person who was discharged or released from active duty because of a service-connected disability.

Veteran of the Vietnam era means a person who--

(1) Served on active duty for a period of more than 180 days and was discharged or released from active duty with other than a dishonorable discharge, if any part of such active duty occurred--

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases; or

(2) Was discharged or released from active duty for a service-connected disability if any part of the active duty was performed--

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases.

(b) General. (1) The Contractor shall not discriminate against the individual because the individual is a special disabled veteran, a veteran of the Vietnam era, or other eligible veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans without discrimination based upon their disability or veterans' status in all employment practices such as--

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

(iii) Rate of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).

(c) Listing openings. (1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

(2) The Contractor shall make the listing of employment openings with the local employment service office at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State public employment agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.

(d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands of the United States, and Wake Island.

(e) Postings. (1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.

(2) The employment notices shall--

(i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans, veterans of the Vietnam era, and other eligible veterans; and

(ii) Be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary of Labor), and provided by or through the Contracting Officer.

(3) The Contractor shall ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled veteran, or may lower the posted notice so that it can be read by a person in a wheelchair).

(4) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of the Act and is committed to take affirmative action to employ, and advance in employment, qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans.

(f) Noncompliance. If the Contractor does not comply with the requirements of this clause, the Government may take appropriate actions under the rules, regulations, and relevant orders of the Secretary of Labor

issued pursuant to the Act.

(g) Subcontracts. The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Deputy Assistant Secretary of Labor to enforce the terms, including action for noncompliance.

I.47 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES. (JUN 1998)

(a) *General.* (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as -

- (i) Recruitment, advertising, and job application procedures;
- (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- (iii) Rates of pay or any other form of compensation and changes in compensation;
- (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- (v) Leaves of absence, sick leave, or any other leave;
- (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
- (vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- (viii) Activities sponsored by the Contractor, including social or recreational programs; and
- (ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) *Postings.* (1) The Contractor agrees to post employment notices stating -

- (i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and
- (ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (*e.g.*, the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant

Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) *Noncompliance.* If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

I.48 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. (SEP 2006)

(a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on-

(1) The number of special disabled veterans, the number of veterans of the Vietnam era, and other eligible veterans in the workforce of the Contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of special disabled veterans, the number of veterans of the Vietnam era, and the number of other eligible veterans; and

(3) The maximum number and the minimum number of employees of the Contractor during the period covered by the report.

(b) The Contractor shall report the above items by completing the Form VETS100, entitled "Federal Contractor Veterans' Employment Report (VETS100 Report)".

(c) The Contractor shall submit VETS100 Reports no later than September 30 of each year beginning September 30, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date-

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The Contractor shall base the count of veterans reported according to paragraph (a) of this clause on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all special disabled veterans, veterans of the Vietnam era, and other eligible veterans who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that-

(1) The information is voluntarily provided;

(2) The information will be kept confidential;

(3) Disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and

(4) The information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

1.49 52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES. (DEC 2004)

(a) Definition. As used in this clause--

United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs.

Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

National Labor Relations Board
Division of Information
1099 14th Street, N.W.
Washington, DC 20570
1-866-667-6572
1-866-316-6572 (TTY)

To locate the nearest NLRB office, see NLRB's website at <http://www.nlr.gov>.

(c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR part 470, and orders of the Secretary of Labor.

(d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR part 470, Subpart B--Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 470, which implements Executive Order 13201, or as are otherwise provided by law.

(e) The requirement to post the employee notice in paragraph (b) does not apply to--

(1) Contractors and subcontractors that employ fewer than 15 persons;

(2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;

(3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;

(4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that--

(i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and

(ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or

(5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.

(f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall--

(1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Download a copy of the poster from the Office of Labor-Management Standards website at <http://www.olms.dol.gov>; or

(3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.

(g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR part 470, Subpart B--Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with

such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

I.50 52.222-41 SERVICE CONTRACT ACT OF 1965. (NOV 2007)

(a) Definitions. As used in this clause--

"Act" means the Service Contract Act of 1965 (41 U.S.C. 351, et seq.)

"Contractor" when this clause is used in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service employee," means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) *Applicability.* This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR part 4.

(c) *Compensation.* (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (*i.e.*, the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (*i.e.*, appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request For Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable

relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (*i.e.*, adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) *Adjustment of compensation.* If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) *Obligation to furnish fringe benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) *Minimum wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section

6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor contracts.* If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Administrative Review Board, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) *Notification to employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) *Safe and sanitary working conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) *Records.* (1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act -

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) *Pay periods.* The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) *Withholding of payments and termination of contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontracts.* The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) *Collective bargaining agreements applicable to service employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at

a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority list.* Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) *Rulings and interpretations.* Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) *Contractor's certification.* (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) *Variations, tolerances, and exemptions involving employment.* Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if

no such recognized agency exists in a State, under a program registered with the Office of Apprenticeship Training, Employer, and Labor Services (OATELS), U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips.* An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision -

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) *Disputes concerning labor standards.* The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

I.51 52.222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS), (NOV 2006)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The wage determination, issued under the Service Contract Act of 1965, as amended, (41 U.S.C. 351, *et seq.*), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price or contract unit price labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

(1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;

(2) An increased or decreased wage determination otherwise applied to the contract by operation of law; or

(3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (d) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(g) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract.

I.52 52.222-50 COMBATING TRAFFICKING IN PERSONS. (AUG 2007)

(a) Definitions. As used in this clause--

"Coercion" means--

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process.

"Commercial sex act" means any sex act on account of which anything of value is given to or received by any person.

"Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

"Employee" means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

"Involuntary servitude" includes a condition of servitude induced by means of--

- (1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
- (2) The abuse or threatened abuse of the legal process.

"Severe forms of trafficking in persons" means--

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

"Sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(b) Policy. The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors and contractor employees shall not--

- (1) Engage in severe forms of trafficking in persons during the period of performance of the contract;
- (2) Procure commercial sex acts during the period of performance of the contract; or
- (3) Use forced labor in the performance of the contract.

(c) Contractor requirements. The Contractor shall--

- (1) Notify its employees of--
 - (i) The United States Government's zero tolerance policy described in paragraph (b) of this clause; and
 - (ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and
- (2) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.

(d) Notification. The Contractor shall inform the Contracting Officer immediately of--

- (1) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and
- (2) Any actions taken against Contractor employees, subcontractors, or subcontractor employees pursuant to this clause.

(e) Remedies. In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), or (f) of this clause may render the Contractor subject to--

- (1) Required removal of a Contractor employee or employees from the performance of the contract;
- (2) Required subcontractor termination;
- (3) Suspension of contract payments;
- (4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;
- (5) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or
- (6) Suspension or debarment.

(f) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts.

1.53 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA. (JAN 1997) - ALTERNATE I (JUL 1995)

- (a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).
- (b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

MATERIAL

(If none, insert "None")	Identification No.
_____	_____
_____	_____
_____	_____

- (c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.
- (d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.
- (e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.
- (f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.
- (g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in

connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to -

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(i) Except as provided in paragraph (i)(2), the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

I.54 52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION. (AUG 2003)

(a) Definitions. As used in this clause--

Priority chemical means a chemical identified by the Interagency Environmental Leadership Workgroup or, alternatively, by an agency pursuant to section 503 of Executive Order 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

Toxic chemical means a chemical or chemical category listed in 40 CFR 372.65.

(b) Executive Order 13148 requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

(c) The Contractor shall provide all information needed by the Federal facility to comply with the following:

(1) The emergency planning reporting requirements of section 302 of EPCRA.

- (2) The emergency notice requirements of section 304 of EPCRA.
- (3) The list of Material Safety Data Sheets, required by section 311 of EPCRA.
- (4) The emergency and hazardous chemical inventory forms of section 312 of EPCRA.
- (5) The toxic chemical release inventory of section 313 of EPCRA, which includes the reduction and recycling information required by section 6607 of PPA.
- (6) The toxic chemical, priority chemical, and hazardous substance release and use reduction goals of sections 502 and 503 of Executive Order 13148.

I.55 52.223-6 DRUG-FREE WORKPLACE. (MAY 2001)

(a) *Definitions.* As used in this clause -

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall - within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration -

- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establish an ongoing drug-free awareness program to inform such employees about -
 - (i) The dangers of drug abuse in the workplace;
 - (ii) The Contractor's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will -

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

I.56 52.223-10 WASTE REDUCTION PROGRAM (AUG 2000)

(a) *Definitions.* As used in this clause -

"Recycling" means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

"Waste prevention" means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

"Waste reduction" means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of Section 701 of Executive Order 13101, the Contractor shall

establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, *et seq.*) and implementing regulations (40 CFR part 247).

1.57 52.223-14 TOXIC CHEMICAL RELEASE REPORTING. (AUG 2003)

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023(a) and (g)), and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106). The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(b) A Contractor-owned or -operated facility used in the performance of this contract is exempt from the requirement to file an annual Form R if--

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

(2) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

(3) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(4) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(i) Major group code 10 (except 1011, 1081, and 1094).

(ii) Major group code 12 (except 1241).

(iii) Major group codes 20 through 39.

(iv) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(v) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, *et seq.*)), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

(5) The facility is not located in the United States or its outlying areas.

(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (b) of this clause, and after award of the contract circumstances change so that any of its owned or operated facilities used in the performance of this contract is no longer exempt -

(1) The Contractor shall notify the Contracting Officer; and

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall -

(i) Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and

(ii) Continue to file the annual Form R for the life of the contract for such facility.

(d) The Contracting Officer may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements.

(e) Except for acquisitions of commercial items as defined in FAR Part 2, the Contractor shall -

(1) For competitive subcontracts expected to exceed \$100,000 (including all options), include a solicitation provision substantially the same as the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting; and

(2) Include in any resultant subcontract exceeding \$100,000 (including all options), the substance of this clause, except this paragraph (e).

I.58 52.223-15 ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS. (DEC 2007)

(a) Definition. As used in this clause--

"Energy-efficient product" --

(1) Means a product that--

(i) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or

(ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

(2) The term "product" does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR products or FEMP-designated products) at the time of contract award, for products that are--

(1) Delivered;

(2) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

(3) Furnished by the Contractor for use by the Government; or

(4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

(c) The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless--

(1) The energy-consuming product is not listed in the ENERGY STAR Program or FEMP; or

(2) Otherwise approved in writing by the Contracting Officer.

(d) Information about these products is available for--

(1) ENERGY STAR at <http://www.energystar.gov/products>; and

(2) FEMP at http://www1.eere.energy.gov/femp/procurement/eep_requirements.html.

I.59 52.224-1 PRIVACY ACT NOTIFICATION. (APR 1984)

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

I.60 52.224-2 PRIVACY ACT. (APR 1984)

(a) The Contractor agrees to -

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies -

(i) The systems of records; and

(ii) The design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.

(c)(1) "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) "System of records on individuals," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

I.61 952.224-70 PAPERWORK REDUCTION ACT. (APR 1984)

(a) In the event that it subsequently becomes a contractual requirement to collect or record information calling either for answer to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is to be used for statistical compilations of general public interest, the Paperwork Reduction Act will apply to this contract. No plan, questionnaire, interview guide,

or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Office of Management and Budget (OMB).

(b) The contractor shall request the required OMB clearance from the Contracting Officer before expending any funds or making public contacts for the collection of data. The authority to expend funds and to proceed with the collection of data shall be in writing by the Contracting Officer. The contractor must plan at least 90 days for OMB clearance. Excessive delay caused by the Government which arises out of causes beyond the control and without the fault or negligence of the contractor will be considered in accordance with the clause entitled "Excusable Delays," if such clause is applicable. If not, the period of performance may be extended pursuant to this clause if approved by the Contracting Officer.

1.62 52.225-5 TRADE AGREEMENTS. (NOV 2007) (DOE Deviation) (FEB 2008)

(a) *Definitions.* As used in this clause -

"Caribbean-Basin country end-product" --

(1) Means an article that --

(i)(A) Is wholly the growth, product, or manufacture of a Caribbean-Basin country; or

(B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean-Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed; and

(ii) Is not excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b);

(A) For this reason, the following articles are not Caribbean-Basin country end products:

(1) Tuna, prepared or preserved in any manner in airtight containers;

(2) Petroleum, or any product derived from petroleum;

(3) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply (i.e., Afghanistan, Cuba, Laos, North Korea, and Vietnam); and

(4) Certain of the following: textiles and apparel articles; footwear; handbags, luggage, flat goods, work gloves, and leather wearing apparel; or handloomed, handmade, and folklore articles;

(B) Access to the HTSUS to determine duty-free status of articles of these types is available at <http://www.usita.gov/tata/hts/>. In particular, see the following:

(1) General Note 3(e), Products Eligible for Special Tariff treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries under the United States-Caribbean Basin Trade Partnership Act of 2000.

~~(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).~~

~~(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits under the United States--Caribbean Basin Trade Partnership Act; and~~

~~(2) Refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the acquisition, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.~~

"Designated country" means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);

(2) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

~~(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).~~

"Designated country end product" means a WTO GPA country end product, an FTA country end product, a least developed country end product, ~~or a Caribbean Basin country end product.~~

"End product" means those articles, materials, and supplies to be acquired under the contract for public use.

"Free Trade Agreement country end product" means an article that--

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"Least developed country end product" means an article that--

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of

commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-made end product" means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

"WTO GPA country end product" means an article that--

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(b) Delivery of end products. The Contracting Officer has determined that the WTO GPA and FTAs apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made or designated country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled "Trade Agreements Certificate."

I.63 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES. (JUN 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR Chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR Chapter V and/or on OFAC's website at <http://www.treas.gov/offices/enforcement/ofac>.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

I.64 952.226-71 UTILIZATION OF ENERGY POLICY ACT TARGET ENTITIES. (JUN 1996)

(a) Definition. - Energy Policy Act target groups, as used in this provision means:

(1) An institution of higher education that meets the requirements of 34 CFR 600.4(a) and has a student enrollment that consists of at least 20 percent:

(i) Hispanic Americans, i.e., students whose origins are in Mexico, Puerto Rico, Cuba, or Central or South America, or any combination thereof, or

(ii) Native Americans, i.e., American Indians, Eskimos, Aleuts, and Native Hawaiians, or any combination thereof;

(2) Institutions of higher learning determined to be Historically Black Colleges and Universities by the Secretary of Education pursuant to 34 CFR 608.2; and

(3) Small business concerns, as defined under section 3 of the Small Business Act (15 U.S.C. 632), that are owned and controlled by individuals who are both socially and economically disadvantaged within the meaning of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) or by a woman or women.

(b) Obligation. In addition to its obligations under the clause of this contract entitled Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns, the contractor, in performance of this contract, agrees to provide its best efforts to competitively award subcontracts to entities from among the Energy Policy Act target groups.

1.65 952.226-72 ENERGY POLICY ACT SUBCONTRACTING GOALS AND REPORTING REQUIREMENTS. (JUN 1996)

(a) Definition. - Energy Policy Act target groups, as used in this provision means:

(1) An institution of higher education that meets the requirements of 34 CFR 600.4(a), and has a student enrollment that consists of at least 20 percent:

(i) Hispanic Americans, i.e., students whose origins are in Mexico, Puerto Rico, Cuba, or Central or South America, or any combination thereof, or

(ii) Native Americans, i.e., American Indians, Eskimos, Aleuts, and Native Hawaiians, or any combination thereof;

(2) Institutions of higher learning determined to be Historically Black Colleges and Universities by the Secretary of education pursuant to 34 CFR 608.2; and

(3) Small business concerns, as defined under section 3 of the Small Business Act (15 U.S.C. 632), that are owned and controlled by individuals who are both socially and economically disadvantaged within the meaning of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) or by a woman or women.

(b) Goals. The contractor, in performance of this contract, agrees to provide its best efforts to award subcontracts to the following classes of entities:

(1) Small business concerns controlled by socially and economically disadvantaged individuals or by women: [3.0] percent;

(2) Historically Black colleges and universities: [0.5] percent;

(3) Colleges or universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans: [0.5] percent.

* * * These goals are stated in a percentage reflecting the relationship of estimated award value of subcontracts to the value of this contract and appear elsewhere in this contract.

(c) Reporting requirements. (1) The contractor agrees to report, on an annual Federal Government fiscal year basis, its progress against the goals by providing the actual annual dollar value of subcontract payments for the preceding 12-month period, and the relationship of those payments to the incurred

contract costs for the same period. Reports submitted pursuant to this clause must be received by the Contracting Officer (or designee) not later than 45 days after the end of the reporting period.

(2) If the contract includes reporting requirements under FAR 52.219-9, Small, Small Disadvantaged and Women-Owned Subcontracting Plan, the contractor's progress against the goals stated in paragraph (b) of this clause shall be included as an addendum to Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, as applicable, for the period that corresponds to the end of the Federal Government fiscal year.

I.66 52.227-1 AUTHORIZATION AND CONSENT. (DEC 2007) -- ALTERNATE I (APR 1984)

(a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this contract or any subcontract at any tier.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts that are expected to exceed the simplified acquisition threshold. However, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

I.67 970.5227-1 RIGHTS IN DATA--FACILITIES (DEC 2000)

(a) *Definitions.*

(1) *Computer data bases*, as used in this clause, means a collection of data in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

(2) *Computer software*, as used in this clause, means

- (i) computer programs which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations and
- (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled. The term does not include computer data bases.

(3) *Data*, as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term "data" does not include data incidental to the administration of this contract, such as financial, administrative, cost and pricing, or management information.

(4) *Limited rights data*, as used in this clause, means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged. The Government's rights to use, duplicate, or disclose limited rights data are as set forth in the Limited Rights Notice of subparagraph (e) of this clause.

(5) *Restricted computer software*, as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software, including minor modifications of any such computer software. The Government's rights to use, duplicate, or disclose restricted computer software are as set forth in the Restricted Rights Notice of paragraph (f) of this clause.

(6) *Technical data*, as used in this clause, means recorded data, regardless of form or characteristic, that are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.

(7) *Unlimited rights*, as used in this clause, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, including by electronic means, and perform publicly and display publicly, in any manner, including by electronic means, and for any purpose whatsoever, and to have or permit others to do so.

(b) *Allocation of Rights.*

(1) The Government shall have:

- (i) Ownership of all technical data and computer software first produced in the performance of this Contract;
- (ii) Unlimited rights in technical data and computer software specifically used in the performance of this Contract, except as provided herein regarding copyright, limited rights data, or restricted computer software, or except for other data specifically protected by statute for a period of time or, where, approved by DOE, appropriate instances of the DOE Work for Others Program;
- (iii) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data, in accordance with subparagraph (c)(3) of this clause.
- (iv) The right to inspect technical data and computer software first produced or specifically used in the performance of this Contract at all reasonable times. The Contractor shall make available all necessary facilities to allow DOE personnel to perform such inspection;
- (v) The right to have all technical data and computer software first produced or specifically used in the performance of this Contract delivered to the Government or otherwise disposed of by the Contractor, either as the Contracting Officer may from time to time direct during the progress of the work or in any event as the Contracting Officer shall direct upon completion or termination of this Contract. The Contractor agrees to leave a copy of such data at the facility or plant to which such data relate, and to make available for access or to deliver to the Government such data upon request by the Contracting Officer. If such data are limited rights data or restricted computer software, the rights of the Government in such data shall be governed solely by the provisions of paragraph (e) of this clause ("Rights in Limited Rights Data") or paragraph (f) of this clause ("Rights in Restricted Computer Software"); and
- (vi) The right to remove, cancel, correct, or ignore any markings not authorized by the terms of this Contract on any data furnished hereunder if, in response to a written inquiry by DOE concerning the propriety of the markings, the Contractor fails to respond thereto within 60 days or fails to substantiate the propriety of the markings. In either case DOE will notify the Contractor of the action taken.

(2) The Contractor shall have the right to withhold limited rights data and restricted computer software unless otherwise provided in accordance with the provisions of this clause.

(3) The Contractor agrees that for limited rights data or restricted computer software or other technical, business or financial data in the form of recorded information which it receives from, or is given access to by, DOE or a third party, including a DOE Contractor or subcontractor, and for technical data or computer software it first produces under this Contract which is authorized to be marked by DOE, the Contractor shall treat such data in accordance with any restrictive legend contained thereon.

(c) *Copyrighted Material.*

- (1) The Contractor shall not, without prior written authorization of the Patent Counsel, assert copyright in any technical data or computer software first produced in the performance of this contract. To the extent such authorization is granted, the Government reserves for itself and others acting on its behalf, a nonexclusive, paid-up, irrevocable, world-wide license for Governmental purposes to publish, distribute, translate, duplicate, exhibit, and perform any such data copyrighted by the Contractor.
- (2) The Contractor agrees not to include in the technical data or computer software delivered under the contract any material copyrighted by the Contractor and not to knowingly include any material copyrighted by others without first granting or obtaining at no cost a license therein for the benefit of the Government of the same scope as set forth in paragraph (c)(1) of this clause. If the Contractor believes that such copyrighted material for which the license cannot be obtained must be included in the technical data or computer software to be delivered, rather than merely incorporated therein by reference, the Contractor shall obtain the written authorization of the Contracting Officer to include such material in the technical data or computer software prior to its delivery.
- (3) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (c)(1)(i) of this clause, the Contracting Officer may direct the Contractor to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee, including any follow-on contractor performing essentially the same functions as contracted for under this contract.

(d) *Release and use restrictions.* Except as otherwise specifically provided for in this contract, the Contractor shall not use for purposes other than the performance of this contract, nor shall the Contractor release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(e) *Indemnity.* The Contractor shall indemnify the Government and its officers, agents and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights or right of privacy or publicity, arising out of the creation, delivery, publication or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides noticed to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; nor do these provisions apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(f) *Subcontracting.*

- (1) Unless otherwise directed by the Contracting Officer, the Contractor agrees to use in subcontracts in which technical data or computer software is expected to be produced or in subcontracts for supplies that contain a requirement for production or delivery of data in accordance with the policy and procedures of 48 CFR Subpart 27.4 as supplemented by 48 CFR 927.401 through 927.409, the clause entitled, "Rights in Data-General" at 48 CFR 52.227-14 modified in accordance with 927.409(a) and including Alternate V. Alternates II through IV of that clause may be included as appropriate with the prior approval of DOE Patent Counsel, and the Contractor shall not acquire rights in a subcontractor's limited rights data or restricted computer software, except through the use of Alternates II or III, respectively, without the prior approval of DOE Patent Counsel. The clause at 48 CFR 52.227-16, Additional Data Requirements, shall be included in subcontracts in accordance with DEAR 927.409(h). The contractor shall use instead the Rights in Data-Facilities clause at 48 CFR 970.5227-1 in subcontracts, including subcontracts for related support services, involving the design or operation of any plants or facilities or specially designed equipment for such plants

or facilities that are managed or operated under its contract with DOE.

- (2) It is the responsibility of the Contractor to obtain from its subcontractors technical data and computer software and rights therein, on behalf of the Government, necessary to fulfill the Contractor's obligations to the Government with respect to such data. In the event of refusal by a subcontractor to accept a clause affording the Government such rights, the Contractor shall:
 - (i) Promptly submit written notice to the Contracting Officer setting forth reasons or the subcontractor's refusal and other pertinent information which may expedite disposition of the matter, and
 - (ii) Not proceed with the subcontract without the written authorization of the Contracting Officer.
- (3) Neither the Contractor nor higher-tier subcontractors shall use their power to award subcontracts as economic leverage to acquire rights in a subcontractor's limited rights data or restricted computer software for their private use.

(g) *Rights in Limited Rights Data.* Except as may be otherwise specified in this Contract as data which are not subject to this paragraph, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up license by or for the Government, in any limited rights data of the Contractor specifically used in the performance of this Contract, provided, however, that to the extent that any limited rights data when furnished or delivered is specifically identified by the Contractor at the time of initial delivery to the Government or a representative of the Government, such data shall not be used within or outside the Government except as provided in the "Limited Rights Notice" set forth. All such limited rights data shall be marked with the following "Limited Rights Notice":

Limited Rights Notice

These data contain "limited rights data," furnished under Contract No.

_____ with the United States Department of Energy which may be duplicated and used by the Government with the express limitations that the "limited rights data" may not be disclosed outside the Government or be used for purposes of manufacture without prior permission of the Contractor, except that further disclosure or use may be made solely for the following purposes:

- (a) Use (except for manufacture) by support services contractors within the scope of their contracts;
- (b) This "limited rights data" may be disclosed for evaluation purposes under the restriction that the "limited rights data" be retained in confidence and not be further disclosed;
- (c) This "limited rights data" may be disclosed to other contractors participating in the Government's program of which this Contract is a part for information or use (except for manufacture) in connection with the work performed under their contracts and under the restriction that the "limited rights data" be retained in confidence and not be further disclosed;
- (d) This "limited rights data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "limited rights data" be retained in confidence and not be further disclosed; and
- (e) Release to a foreign government, or instrumentality thereof, as the interests of the United States Government may require, for information or evaluation, or for emergency repair or overhaul work by such government. This Notice shall be marked on any reproduction of this data in whole or in part.

(End of Notice)

(h) *Rights in Restricted Computer Software.*

- (1) Except as may be otherwise specified in this Contract as data which are not subject to this paragraph, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up, license by or for the Government, in any restricted computer software of the Contractor specifically used in the performance of this Contract, provided, however, that to the extent that any restricted computer software when furnished or delivered is specifically identified by the Contractor at the time of initial delivery to the Government or a representative of the Government, such data shall not be used within or outside the Government except as provided in the "Restricted Rights Notice" set forth below. All such restricted computer software shall be marked with the following "Restricted Rights Notice":

Restricted Rights Notice-Long Form

(a) This computer software is submitted with restricted rights under Department of Energy Contract No. _____. It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this notice.

(b) This computer software may be:

- (1) Used or copied for use in or with the computer or computers for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

- (2) Used, copied for use, in a backup or replacement computer if any computer for which it was acquired is inoperative or is replaced;

- (3) Reproduced for safekeeping (archives) or backup purposes;

- (4) Modified, adapted, or combined with other computer software, provided that only the portions of the derivative software consisting of the restricted computer software are to be made subject to the same restricted rights; and

- (5) Disclosed to and reproduced for use by contractors under a service contract (of the type defined in 48 CFR 37.101) in accordance with subparagraphs (b)(1) through (4) of this Notice, provided the Government makes such disclosure or reproduction subject to these restricted rights.

(c) Notwithstanding the foregoing, if this computer software has been published under copyright, it is licensed to the Government, without disclosure prohibitions, with the rights set forth in the restricted rights notice above.

(d) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of Notice)

- (2) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form Notice may be used.

Restricted Rights Notice--Short Form

Use, reproduction, or disclosure is subject to restrictions set forth in the Long Form Notice of DOE Contract No. _____ with (name of Contractor).

(End of Notice)

- (3) If the software is embedded, or if it is commercially impractical to mark it with human readable text, then the symbol R and the clause date (mo/yr), in brackets or a box, a [R-mo/yr],

may be used. This will be read to mean restricted computer software, subject to the rights of the Government as described in the Long Form Notice, in effect as of the date indicated next to the symbol. The symbol shall not be used to mark human readable material. In the event this Contract contains any variation to the rights in the Long Form Notice, then the contract number must also be cited.

- (4) If restricted computer software is delivered with the copyright notice of 17 U.S.C. 401, the software will be presumed to be published copyrighted computer software licensed to the Government without disclosure prohibitions and with unlimited rights, unless the Contractor includes the following statement with such copyright notice "Unpublished-rights reserved under the Copyright Laws of the United States."

(i) *Relationship to patents.* Nothing contained in this clause creates or is intended to imply a license to the Government in any patent or is intended to be construed as affecting the scope of any licenses or other rights otherwise granted to the Government under any patent.

Alternate 1 (DEC 2000). As prescribed in 48 CFR 970.2704-3(a), where access to Category C-24 restricted data is contemplated in the performance of a contract the Contracting Officer shall insert the phrase "and except Restricted Data in category C-24, 10 CFR part 725, in which DOE has reserved the right to receive reasonable compensation for the use of its inventions and discoveries, including related data and technology" after "laser isotope separation" and before the comma in paragraph (b)(2)(ii) of the clause at 48 CFR 970.5227-1, Rights in Data--Facilities, as appropriate.

I.68 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT. (DEC 2007)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in the Contractor's possession pertaining to such claim or suit. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts that are expected to exceed the simplified acquisition threshold.

I.69 970.5227-7 ROYALTY INFORMATION (DEC 2000)

(a) Cost or charges for royalties. If the response to this solicitation contains costs or charges for royalties totaling more than \$250, the following information shall be included in the response relating to each separate item of royalty or license fee:

- (1) Name and address of licensor;
- (2) Date of license agreement;
- (3) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable;
- (4) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable;

- (5) Percentage or dollar rate of royalty per unit;
 - (6) Unit price of contract item;
 - (7) Number of units; and
 - (8) Total dollar amount of royalties.
- (b) Copies of current licenses. In addition, if specifically requested by the Contracting Officer before execution of the contract, the offeror shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents or other basis upon which the royalty may be payable.

I.70 970.5227-8 REFUND OF ROYALTIES (AUG 2002)

- (a) During performance of this Contract, if any royalties are proposed to be charged to the Government as costs under this Contract, the Contractor agrees to submit for approval of the Contracting Officer, prior to the execution of any license, the following information relating to each separate item of royalty:
- (1) Name and address of licensor;
 - (2) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable;
 - (3) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable;
 - (4) Percentage or dollar rate of royalty per unit;
 - (5) Unit price of contract item;
 - (6) Number of units;
 - (7) Total dollar amount of royalties; and
 - (8) A copy of the proposed license agreement.
- (b) If specifically requested by the Contracting Officer, the Contractor shall furnish a copy of any license agreement entered into prior to the effective date of this clause and an identification of applicable claims of specific patents or other basis upon which royalties are payable.
- (c) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for rights in patents and patent applications that are used in the performance of this contract or any subcontract hereunder.
- (d) The Contractor shall furnish to the Contracting Officer, annually upon request, a statement of royalties paid or required to be paid in connection with performing this Contract and subcontracts hereunder.
- (e) For royalty payments under licenses entered into after the effective date of this Contract, costs incurred for royalties proposed under this paragraph shall be allowable only to the extent that such royalties are approved by the Contracting Officer. If the Contracting Officer determines that existing or proposed royalty payments are inappropriate, any payments subsequent to such determination shall be allowable only to the extent approved by the Contracting Officer.
- (f) Regardless of prior DOE approval of any individual payments or royalties, DOE may contest at any time the enforceability, validity, scope of, or title to a patent for which the Contractor makes a royalty or

other payment.

- (g) If at any time within 3 years after final payment under this contract, the Contractor for any reason is relieved in whole or in part from the payment of any royalties to which this clause applies, the Contractor shall promptly notify the Contracting Officer of that fact and shall promptly reimburse the Government for any refunds received or royalties paid after having received notice of such relief.
- (h) The Contractor agrees to include, and require inclusion of, this clause, including this paragraph (h), suitably modified to identify the parties in any subcontract at any tier in which the amount of royalties reported during negotiation of the subcontract exceeds \$250.

I.71 952.227-11 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM). (FEB 1995)

(a) Definitions.

(1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321, et seq.).

(2) "Made" when used in relation to any invention means the conception of first actual reduction to practice of such invention.

(3) "Nonprofit organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(4) "Practical application" means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(5) "Small business firm" means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) "Subject invention" means any invention of the contractor conceived or first actually reduced to practice in the performance of work under this contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(7) "Agency licensing regulations" and "agency regulations concerning the licensing of Government-owned inventions" mean the Department of Energy patent licensing regulations at 10 CFR Part 781.

(b) Allocation of principal rights. The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention disclosure, election of title, and filing of patent application by Contractor. (1) The Contractor will disclose each subject invention to the Department of Energy (DOE) within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to DOE shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the DOE, the Contractor will promptly notify that agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor. (2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying DOE within 2 years of disclosure to DOE. However, in any case where publication, on sale or public use has initiated the 1-year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by DOE to a date that is no more than 60 days prior to the end of the statutory period. (3) The Contractor will file its initial patent application on a subject invention to which it elects to retain title within 1 year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries or international patent offices within either 10 months of the corresponding initial patent application or 6 months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure, election, and filing under subparagraphs (c)(1), (2), and (3) of this clause may, at the discretion of the agency, be granted.

(d) Conditions when the Government may obtain title. The Contractor will convey to the Federal agency, upon written request, title to any subject invention -

(1) If the Contractor fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain title; provided, that DOE may only request title within 60 days after learning of the failure of the Contractor to disclose or elect within the specified times. (2) In those countries in which the Contractor fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the Contractor has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the Federal agency, the Contractor shall continue to retain title in that country. (3) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum rights to Contractor and protection of the Contractor right to file. (1) The Contractor will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Contractor fails to disclose the invention within the times specified in paragraph (c) of this clause. The Contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Federal agency, except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by DOE to the extent necessary to achieve expeditious practical application of subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404 and agency licensing regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of DOE to the extent the Contractor, its

licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country. (3) Before revocation or modification of the license, DOE will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by DOE for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in 37 CFR Part 404 and agency regulations concerning the licensing of Government owned inventions, any decision concerning the revocation or modification of the license.

(f) Contractor action to protect the Government's interest. (1) The Contractor agrees to execute or to have executed and promptly deliver to DOE all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to DOE when requested under paragraph (d) of this clause and to enable the government to obtain patent protection throughout the world in that subject invention. (2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by subparagraph (c)(1) of this clause. The Contractor shall instruct such employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars. (3) The Contractor will notify DOE of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office. (4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by the United States Department of Energy. The Government has certain rights in the invention."

(g) Subcontracts. (1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions. (2) The contractor shall include in all other subcontracts, regardless of tier, for experimental, developmental, demonstration, or research work the patent rights clause at 952.227-13. (3) In the case of subcontracts, at any tier, DOE, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and DOE with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

(h) Reporting on utilization of subject inventions. The Contractor agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received, by the Contractor, and such other data and information as DOE may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by DOE in connection with any march-in proceeding undertaken by that agency in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), DOE agrees it will not disclose such information to persons outside the Government without permission of the Contractor.

(i) Preference for United States industry. Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any product embodying the subject invention

or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by DOE upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in rights. The Contractor agrees that, with respect to any subject invention in which it has acquired title, DOE has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and, if the Contractor, assignee, or exclusive licensee refuses such a request, DOE has the right to grant such a license itself if DOE determines that - (1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use; (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees; (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special provisions for contracts with nonprofit organizations. If the Contractor is a nonprofit organization, it agrees that - (1) Rights to a subject invention in the United States may not be assigned without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions; provided, that such assignee will be subject to the same provisions as the Contractor; (2) The Contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when DOE deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10; (3) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions will be utilized for the support of scientific research or education; and (4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms, and that it will give a preference to a small business firm when licensing a subject invention if the Contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the Contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the contractor. However, the Contractor agrees that the Secretary of Commerce may review the Contractor's licensing program and decisions regarding small business applicants, and the Contractor will negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when that Secretary's review discloses that the Contractor could take reasonable steps to more effectively implement the requirements of this subparagraph (k)(4).

(l) Communications.

(1) The contractor shall direct any notification, disclosure, or request to DOE provided for in this clause to the DOE patent counsel assisting the DOE contracting activity, with a copy of the communication to the Contracting Officer. (2) Each exercise of discretion or decision provided for in this clause, except subparagraph (k)(4), is reserved for the DOE Patent Counsel and is not a claim or dispute and is not subject to the Contract Disputes Act of 1978. (3) Upon request of the DOE Patent Counsel or the Contracting Officer, the contractor shall provide any or all of the following:

(i) a copy of the patent application, filing date, serial number and title, patent number, and issue date for any subject invention in any country in which the contractor has applied for a patent;

(ii) a report, not more often than annually, summarizing all subject inventions which were disclosed to DOE individually during the reporting period specified; or

(iii) a report, prior to closeout of the contract, listing all subject inventions or stating that there were none.

I.72 952.227-13 PATENT RIGHTS-ACQUISITION BY THE GOVERNMENT. (SEP 1997)

(a) Definitions.

"Invention", as used in this clause, means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, et seq.).

"Practical application", as used in this clause, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

"Subject invention", as used in this clause, means any invention of the Contractor conceived or first actually reduced to practice in the course of or under this contract.

"Patent Counsel", as used in this clause, means the Department of Energy Patent Counsel assisting the procuring activity.

"DOE patent waiver regulations", as used in this clause, means the Department of Energy patent waiver regulations at 41 CFR 9-9.109- 6 or successor regulations. See 10 CFR part 784.

"Agency licensing regulations" and "applicable agency licensing regulations", as used in this clause, mean the Department of Energy patent licensing regulations at 10 CFR Part 781.

(b) Allocations of principal rights.

(1) Assignment to the Government. The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each subject invention, except to the extent that rights are retained by the Contractor under subparagraph (b)(2) and paragraph (d) of this clause.

(2) Greater rights determinations.

(i) The contractor, or an employee-inventor after consultation with the Contractor, may request greater rights than the nonexclusive license and the foreign patent rights provided in paragraph (d) of this clause on identified inventions in accordance with the DOE patent waiver regulations. A request for a determination of whether the Contractor or the employee-inventor is entitled to acquire such greater rights must be submitted to the Patent Counsel with a copy to the Contracting Officer at the time of the first disclosure of the invention pursuant to subparagraph (e)(2) of this clause, or not later than 8 months thereafter, unless a longer period is authorized in writing by the Contracting Officer for good cause shown in writing by the Contractor. Each determination of greater rights under this contract shall be subject to paragraph (c) of this clause, unless otherwise provided in the greater rights determination, and to the reservations and conditions deemed to be appropriate by the Secretary of Energy or designee.

(ii) Within two (2) months after the filing of a patent application, the Contractor shall

provide the filing date, serial number and title, a copy of the patent application (including an English-language version if filed in a language other than English), and, promptly upon issuance of a patent, provide the patent number and issue date for any subject invention in any country for which the Contractor has been granted title or the right to file and prosecute on behalf of the United States by the Department of Energy.

(iii) Not less than thirty (30) days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the Patent Counsel of any decision not to continue prosecution of the application.

(iv) Upon request, the Contractor shall furnish the Government an irrevocable power to inspect and make copies of the patent application file.

(c) Minimum rights acquired by the Government. (1) With respect to each subject invention to which the Department of Energy grants the Contractor principal or exclusive rights, the Contractor agrees as follows:

(i) The Contractor hereby grants to the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced each subject invention throughout the world by or on behalf of the Government of the United States (including any Government agency).

(ii) The Contractor agrees that with respect to any subject invention in which DOE has granted it title, DOE has the right in accordance with the procedures in the DOE patent waiver regulations (10 CFR part 784) to require the Contractor, an assignee, or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, DOE has the right to grant such a license itself if it determines that - (A) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use; (B) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees; (C) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or (D) Such action is necessary because the agreement required by paragraph (i) of this clause has neither been obtained nor waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(iii) The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as DOE may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by DOE in connection with any march-in proceedings undertaken by that agency in accordance with subparagraph (c)(1)(ii) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee, or assignee to be privileged and confidential and is so marked, the Department of Energy agrees that, to the extent permitted by law, it will not disclose such information to persons outside the Government.

(iv) The Contractor agrees, when licensing a subject invention, to arrange to avoid royalty charges on acquisitions involving Government funds, including funds derived through a Military Assistance Program of the Government or otherwise derived through

the Government, to refund any amounts received as royalty charges on a subject invention in acquisitions for, or on behalf of, the Government, and to provide for such refund in any instrument transferring rights in the invention to any party.

(v) The Contractor agrees to provide for the Government's paid-up license pursuant to subparagraph (c)(1)(i) of this clause in any instrument transferring rights in a subject invention and to provide for the granting of licenses as required by subparagraph (c)(1)(ii) of this clause, and for the reporting of utilization information as required by subparagraph (c)(1)(iii) of this clause, whenever the instrument transfers principal or exclusive rights in a subject invention.

(2) Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a subject invention.

(d) Minimum rights to the Contractor. (1) The Contractor is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government obtains title, unless the Contractor fails to disclose the subject invention within the times specified in subparagraph (e)(2) of this clause. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of DOE except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by DOE to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in 37 CFR Part 404 and agency licensing regulations. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical applications and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of DOE to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, DOE will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by DOE for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable agency licensing regulations and 37 CFR Part 404 concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(4) The Contractor may request the right to acquire patent rights to a subject invention in any foreign country where the Government has elected not to secure such rights, subject to the conditions in subparagraphs (d)(4)(i) through (d)(4)(vii) of this clause. Such request must be made in writing to the Patent Counsel as part of the disclosure required by subparagraph (e)(2) of this clause, with a copy to the DOE Contracting Officer. DOE approval, if given, will be based on a determination that this would best serve the national interest.

(i) The recipient of such rights, when specifically requested by DOE, and three years after issuance of a foreign patent disclosing the subject invention, shall furnish DOE a report stating:

(A) The commercial use that is being made, or is intended to be made, of said invention, and

(B) The steps taken to bring the invention to the point of practical application or to make the invention available for licensing.

(ii) The Government shall retain at least an irrevocable, nonexclusive, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government (including any Government agency) and States and domestic municipal governments, unless the Secretary of Energy or designee determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments.

(iii) If noted elsewhere in this contract as a condition of the grant of an advance waiver of the Government's title to inventions under this contract, or, if no advance waiver was granted but a waiver of the Government's title to an identified invention is granted pursuant to subparagraph (b)(2) of this clause upon a determination by the Secretary of Energy that it is in the Government's best interest, this license shall include the right of the Government to sublicense foreign governments pursuant to any existing or future treaty or agreement with such foreign governments.

(iv) Subject to the rights granted in subparagraphs (d)(1), (2), and (3) of this clause, the Secretary of Energy or designee shall have the right to terminate the foreign patent rights granted in this subparagraph (d)(4) in whole or in part unless the recipient of such rights demonstrates to the satisfaction of the Secretary of Energy or designee that effective steps necessary to accomplish substantial utilization of the invention have been taken or within a reasonable time will be taken.

(v) Subject to the rights granted in subparagraphs (d)(1), (2), and (3) of this clause, the Secretary of Energy or designee shall have the right, commencing four years after foreign patent rights are accorded under this subparagraph (d)(4), to require the granting of a nonexclusive or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, and in appropriate circumstances to terminate said foreign patent rights in whole or in part, following a hearing upon notice thereof to the public, upon a petition by an interested person justifying such hearing:

(A) If the Secretary of Energy or designee determines, upon review of such material as he deems relevant, and after the recipient of such rights or other interested person has had the opportunity to provide such relevant and material information as the Secretary or designee may require, that such foreign patent rights have tended substantially to lessen competition or to result in undue market concentration in any section of the United States in any line of commerce to which the technology relates; or

(B) Unless the recipient of such rights demonstrates to the satisfaction of the Secretary of Energy or designee at such hearing that the recipient has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

(vi) If the contractor is to file a foreign patent application on a subject invention, the Government agrees, upon written request, to use its best efforts to withhold publication of such invention disclosures for such period of time as specified by Patent Counsel, but in no event shall the Government or its employees be liable for any publication thereof.

(vii) Subject to the license specified in subparagraphs (d)(1), (2), and (3) of this clause, the contractor or inventor agrees to convey to the Government, upon request, the entire right, title, and interest in any foreign country in which the contractor or inventor fails to have a patent application filed in a timely manner or decides not to continue prosecution or to pay any maintenance fees covering the invention. To avoid forfeiture of the patent application or patent, the contractor or inventor shall, not less than 60 days before the

expiration period for any action required by any patent office, notify the Patent Counsel of such failure or decision, and deliver to the Patent Counsel, the executed instruments necessary for the conveyance specified in this paragraph.

(e) Invention identification, disclosures, and reports. (1) The Contractor shall establish and maintain active and effective procedures to assure that subject inventions are promptly identified and disclosed to Contractor personnel responsible for patent matters within 6 months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of subject inventions, and records that show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Contractor shall disclose each subject invention to the DOE Patent Counsel with a copy to the Contracting Officer within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters or, if earlier, within 6 months after the Contractor becomes aware that a subject invention has been made, but in any event before any on sale, public use, or publication of such invention known to the Contractor. The disclosure to DOE shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale, or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to DOE, the Contractor shall promptly notify Patent Counsel of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor. The report should also include any request for a greater rights determination in accordance with subparagraph (b)(2) of this clause. When an invention is disclosed to DOE under this paragraph, it shall be deemed to have been made in the manner specified in Sections (a)(1) and (a)(2) of 42 U.S.C. 5908, unless the Contractor contends in writing at the time the invention is disclosed that it was not so made.

(3) The Contractor shall furnish the Contracting Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing all subject inventions during that period, and including a statement that all subject inventions have been disclosed (or that there are not such inventions), and that such disclosure has been made in accordance with the procedures required by paragraph (e)(1) of this clause.

(ii) A final report, within 3 months after completion of the contracted work listing all subject inventions or containing a statement that there were no such inventions, and listing all subcontracts at any tier containing a patent rights clause or containing a statement that there were no such subcontracts.

(4) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by subparagraph (e)(2) of this clause.

(5) The Contractor agrees, subject to FAR 27.302(j), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) Examination of records relating to inventions.

(1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether -

(i) Any such inventions are subject inventions;

(ii) The Contractor has established and maintains the procedures required by subparagraphs (e)(1) and (4) of this clause;

(iii) The Contractor and its inventors have complied with the procedures.

(2) If the Contracting Officer learns of an unreported Contractor invention which the Contracting Officer believes may be a subject invention, the Contractor may be required to disclose the invention to DOE for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) Withholding of payment (NOTE: This paragraph does not apply to subcontracts). (1) Any time before final payment under this contract, the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding \$50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if, in the Contracting Officer's opinion, the Contractor fails to -

(i) Convey to the Government, using a DOE-approved form, the title and/or rights of the Government in each subject invention as required by this clause.

(ii) Establish, maintain, and follow effective procedures for identifying and disclosing subject inventions pursuant to subparagraph (e)(1) of this clause;

(iii) Disclose any subject invention pursuant to subparagraph (e)(2) of this clause;

(iv) Deliver acceptable interim reports pursuant to subparagraph (e)(3)(i) of this clause;
or

(v) Provide the information regarding subcontracts pursuant to subparagraph (h)(4) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(3) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of subject inventions required by subparagraph (e)(2) of this clause, and acceptable final report pursuant to subparagraph (e)(3)(ii) of this clause, and the Patent Counsel has issued a patent clearance certification to the Contracting Officer.

(4) The Contracting Officer may decrease or increase the sums withheld up to the maximum authorized above. No amount shall be withheld under this paragraph while the amount specified

by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government rights.

(h) Subcontracts.

(1) The contractor shall include the clause at 48 CFR 952.227-11 (suitably modified to identify the parties) in all subcontracts, regardless of tier, for experimental, developmental, demonstration, or research work to be performed by a small business firm or domestic nonprofit organization, except where the work of the subcontract is subject to an Exceptional Circumstances Determination by DOE. In all other subcontracts, regardless of tier, for experimental, developmental, demonstration, or research work, the contractor shall include this clause (suitably modified to identify the parties). The contractor shall not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Contractor -

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Contracting Officer.

(3) In the case of subcontracts at any tier, DOE, the subcontractor, and Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and DOE with respect to those matters covered by this clause.

(4) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(5) The contractor shall identify all subject inventions of the subcontractor of which it acquires knowledge in the performance of this contract and shall notify the Patent Counsel, with a copy to the Contracting Officer, promptly upon identification of the inventions.

(i) Preference United States industry. Unless provided otherwise, no Contractor that receives title to any subject invention and no assignee of any such Contractor shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement may be waived by the Government upon a showing by the Contractor or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) Atomic energy.

(1) No claim for pecuniary award of compensation under the provisions of the Atomic Energy Act of 1954, as amended, shall be asserted with respect to any invention or discovery made or conceived in the course of or under this contract.

(2) Except as otherwise authorized in writing by the Contracting Officer, the Contractor will obtain patent agreements to effectuate the provisions of subparagraph (e)(1) of this clause from all persons who perform any part of the work under this contract, except nontechnical personnel, such as clerical employees and manual laborers.

(k) Background Patents.

(1) Background Patent means a domestic patent covering an invention or discovery which is not a subject invention and which is owned or controlled by the Contractor at any time through the completion of this contract:

(i) Which the contractor, but not the Government, has the right to license to others without obligation to pay royalties thereon, and

(ii) Infringement of which cannot reasonably be avoided upon the practice of any specific process, method, machine, manufacture, or composition of matter (including relatively minor modifications thereof) which is a subject of the research, development, or demonstration work performed under this contract.

(2) The Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive license under any background patent for purposes of practicing a subject of this contract by or for the Government in research, development, and demonstration work only.

(3) The Contractor also agrees that upon written application by DOE, it will grant to responsible parties, for purposes of practicing a subject of this contract, nonexclusive licenses under any background patent on terms that are reasonable under the circumstances. If, however, the Contractor believes that exclusive rights are necessary to achieve expeditious commercial development or utilization, then a request may be made to DOE for DOE approval of such licensing by the Contractor.

(4) Notwithstanding subparagraph (k)(3) of this clause, the contractor shall not be obligated to license any background patent if the Contractor demonstrates to the satisfaction of the Secretary of Energy or designee that:

(i) a competitive alternative to the subject matter covered by said background patent is commercially available or readily introducible from one or more other sources; or

(ii) the Contractor or its licensees are supplying the subject matter covered by said background patent in sufficient quantity and at reasonable prices to satisfy market needs, or have taken effective steps or within a reasonable time are expected to take effective steps to so supply the subject matter.

(l) Publication. It is recognized that during the course of the work under this contract, the Contractor or its employees may from time to time desire to release or publish information regarding scientific or technical developments conceived or first actually reduced to practice in the course of or under this contract. In order that public disclosure of such information will not adversely affect the patent interests of DOE or the Contractor, patent approval for release of publication shall be secured from Patent Counsel prior to any such release or publication.

(m) Forfeiture of rights in unreported subject inventions.

(1) The Contractor shall forfeit and assign to the Government, at the request of the Secretary of Energy or designee, all rights in any subject invention which the Contractor fails to report to Patent Counsel within six months after the time the Contractor:

(i) Files or causes to be filed a United States or foreign patent application thereon; or

(ii) Submits the final report required by subparagraph (e)(2)(ii) of this clause, whichever is later.

(2) However, the Contractor shall not forfeit rights in a subject invention if, within the time specified in subparagraph (m)(1) of this clause, the Contractor:

(i) Prepares a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract and delivers the decision to Patent Counsel, with a copy to the Contracting Officer; or

(ii) Contending that the invention is not a subject invention, the Contractor nevertheless discloses the invention and all facts pertinent to this contention to the Patent Counsel, with a copy to the Contracting Officer; or

(iii) Establishes that the failure to disclose did not result from the Contractor's fault or negligence.

(3) Pending written assignment of the patent application and patents on a subject invention determined by the Secretary of Energy or designee to be forfeited (such determination to be a final decision under the Disputes clause of this contract), the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (m) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to subject inventions.

I.73 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL). (JUN 1987)

Except for data contained on pages [none], it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data - General" clause contained in this contract) in and to the technical data contained in the proposal dated [May 20, 2009], upon which this contract is based.

I.74 952.227-84 NOTICE OF RIGHT TO REQUEST PATENT WAIVER (FEB 1998)

Offerors have the right to request a waiver of all or any part of the rights of the United States in inventions conceived or first actually reduced to practice in performance of the contract that may be awarded as a result of this solicitation, in advance of or within 30 days after the effective date of contracting. Even where such advance waiver is not requested or the request is denied, the contractor will have a continuing right under the contract to request a waiver of the rights of the United States in identified inventions, i.e., individual inventions conceived or first actually reduced to practice in performance of the contract. Domestic small businesses and domestic nonprofit organizations normally will receive the patent rights clause at DEAR 952.227-11 which permits the contractor to retain title to such inventions, except under contracts for management or operation of a Government-owned research and development facility or under contracts involving exceptional circumstances or intelligence activities. Therefore, small businesses and nonprofit organizations normally need not request a waiver. See the patent rights clause in the draft contract in this solicitation. See DOE's patent waiver regulations at 10 CFR part 784.

I.75 52.228-5 INSURANCE - WORK ON A GOVERNMENT INSTALLATION. (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the

Government's interest shall not be effective -

- (1) For such period as the laws of the State in which this contract is to be performed prescribe; or
- (2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

I.76 52.228-7 INSURANCE - LIABILITY TO THIRD PERSONS. (MAR 1996)

(a)(1) Except as provided in subparagraph (a)(2) of this clause, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting Officer may require under this contract.

(2) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program, provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.

(3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with insurers approved by the Contracting Officer.

(b) The Contractor agrees to submit for the Contracting Officer's approval, to the extent and in the manner required by the Contracting Officer, any other insurance that is maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement.

(c) The Contractor shall be reimbursed -

(1) For that portion -

- (i) Of the reasonable cost of insurance allocable to this contract; and
- (ii) Required or approved under this clause; and

(2) For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance or otherwise without regard to and as an exception to the limitation of cost or the limitation of funds clause of this contract. These liabilities must arise out of the performance of this contract, whether or not caused by the negligence of the Contractor or of the Contractor's agents, servants, or employees, and must be represented by final judgments or settlements approved in writing by the Government. These liabilities are for -

- (i) Loss of or damage to property (other than property owned, occupied, or used by the Contractor, rented to the Contractor, or in the care, custody, or control of the Contractor); or
- (ii) Death or bodily injury.

(d) The Government's liability under paragraph (c) of this clause is subject to the availability of appropriated funds at the time a contingency occurs. Nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(e) The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) -

(1) For which the Contractor is otherwise responsible under the express terms of any clause specified in the Schedule or elsewhere in the contract;

(2) For which the Contractor has failed to insure or to maintain insurance as required by the Contracting Officer; or

(3) That result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of -

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(f) The provisions of paragraph (e) of this clause shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required in accordance with this clause; *provided*, that such cost is allowable under the Allowable Cost and Payment clause of this contract.

(g) If any suit or action is filed or any claim is made against the Contractor, the cost and expense of which may be reimbursable to the Contractor under this contract, and the risk of which is then uninsured or is insured for less than the amount claimed, the Contractor shall -

(1) Immediately notify the Contracting Officer and promptly furnish copies of all pertinent papers received;

(2) Authorize Government representatives to collaborate with counsel for the insurance carrier in settling or defending the claim when the amount of the liability claimed exceeds the amount of coverage; and

(3) Authorize Government representatives to settle or defend the claim and to represent the Contractor in or to take charge of any litigation, if required by the Government, when the liability is not insured or covered by bond. The Contractor may, at its own expense, be associated with the Government representatives in any such claim or litigation.

I.77 52.229-3 FEDERAL, STATE, AND LOCAL TAXES. (APR 2003)

(a) As used in this clause--

"All applicable Federal, State, and local taxes and duties," means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"After-imposed Federal tax," means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-relieved Federal tax," means any amount of Federal excise tax or duty, except social security or other

employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

"Contract date," means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"Local taxes" includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

I.78 52.230-2 COST ACCOUNTING STANDARDS. (OCT 2008)

(a) Unless the contract is exempt under 48 CFR 9903.201-1 and 9903.201-2, the provisions of 48 CFR Part 9903 are incorporated herein by reference and the Contractor, in connection with this contract, shall—

(1) *(CAS-covered Contracts Only)* By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with paragraph (a)(4) or (a)(5) of this clause, as appropriate.

(3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in 48 CFR Part 9904, in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4) (i) (Agree to an equitable adjustment as provided in the Changes clause of this contract if the contract cost is affected by a change which, pursuant to paragraph (a)(3) of this clause, the Contractor is required to make to the Contractor's established cost accounting practices.

(ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of paragraph (a)(4) of this clause; provided that no agreement may be made under this provision that will increase costs paid by the United States.

(iii) When the parties agree to a change to a cost accounting practice, other than a change under subdivision (a)(4)(i) of this clause, negotiate an equitable adjustment as provided in the Changes clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the annual rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6621(a)(2)) for such period, from the time the payment by the United States was made to the time the adjustment is effected. In no case shall the Government recover costs greater than the increased cost to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the Contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of price negotiations and which it failed to disclose to the Government.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS in 48 CFR 9904 or a CAS rule or regulation in 48 CFR 9903 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontractor's award date or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted. This requirement shall apply only to negotiated subcontracts in excess of \$650,000, except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

I.79 52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES. (OCT 2008)

(a) The Contractor, in connection with this contract, shall—

(1) Comply with the requirements of 48 CFR 9904.401, Consistency in Estimating, Accumulating, and Reporting Costs; 48 CFR 9904.402, Consistency in Allocating Costs Incurred for the Same Purpose; 48 CFR 9904.405, Accounting for Unallowable Costs; and 48 CFR 9904.406, Cost Accounting Standard—Cost Accounting Period, in effect on the date of award of this contract as indicated in 48 CFR Part 9904.

(2) *(CAS-covered Contracts Only)* If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(3) (i) Follow consistently the Contractor's cost accounting practices. A change to such practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement, if affected, must be amended accordingly.

(ii) The Contractor shall, when the parties agree to a change to a cost accounting practice and the Contracting Officer has made the finding required in 48 CFR 9903.201-6(c), that the change is desirable and not detrimental to the interests of the Government, negotiate an equitable adjustment as provided in the Changes clause of this contract. In the absence of the required finding, no agreement may be made under this contract clause that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with the applicable CAS or to follow any cost accounting practice, and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the annual rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6621(a)(2)), from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor has complied with an applicable CAS, rule, or regulation as specified in 48 CFR 9903 and 9904 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, and records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts, which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that—

(1) If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted.

(2) This requirement shall apply only to negotiated subcontracts in excess of \$650,000.

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

1.80 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS. (MAR 2008)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in paragraphs (b) through (i) and (k) through (n) of this clause:

(a) Definitions. As used in this clause--

“Affected CAS-covered contract or subcontract” means a contract or subcontract subject to CAS rules and regulations for which a Contractor or subcontractor--

(1) Used one cost accounting practice to estimate costs and a changed cost accounting practice to accumulate and report costs under the contract or subcontract; or

(2) Used a noncompliant practice for purposes of estimating or accumulating and reporting costs under the contract or subcontract.

“Cognizant Federal agency official (CFAO)” means the Contracting Officer assigned by the cognizant Federal agency to administer the CAS.

“Desirable change” means a compliant change to a Contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is, therefore, not subject to the no increased cost prohibition provisions of CAS-covered contracts and subcontracts affected by the change.

“Fixed-price contracts and subcontracts” means--

(1) Fixed-price contracts and subcontracts described at FAR 16.202, 16.203, (except when price adjustments are based on actual costs of labor or material, described at 16.203-1(a)(2)), and 16.207;

(2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (FAR Subpart 16.4);

(3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (FAR Subpart 16.5); and

(4) The fixed-hourly rate portion of time-and-materials and labor-hours contracts and subcontracts (FAR Subpart 16.6).

“Flexibly-priced contracts and subcontracts” means--

(1) Fixed-price contracts and subcontracts described at FAR 16.203-1(a)(2), 16.204, 16.205, and 16.206;

(2) Cost-reimbursement contracts and subcontracts (FAR Subpart 16.3);

(3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (FAR Subpart 16.4);

(4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (FAR Subpart 16.5); and

(5) The materials portion of time-and-materials contracts and subcontracts (FAR Subpart 16.6).

“Noncompliance” means a failure in estimating, accumulating, or reporting costs to--

- (1) Comply with applicable CAS; or
- (2) Consistently follow disclosed or established cost accounting practices.

“Required change” means--

- (1) A change in cost accounting practice that a Contractor is required to make in order to comply with applicable Standards, modifications or interpretations thereto, that subsequently become applicable to existing CAS-covered contracts or subcontracts due to the receipt of another CAS-covered contract or subcontract; or
- (2) A prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the Contractor to remain in compliance.

“Unilateral change” means a change in cost accounting practice from one compliant practice to another compliant practice that a Contractor with a CAS-covered contract(s) or subcontract(s) elects to make that has not been deemed a desirable change by the CFAO and for which the Government will pay no aggregate increased costs.

(b) Submit to the CFAO a description of any cost accounting practice change as outlined in paragraphs (b)(1) through (3) of this clause (including revisions to the Disclosure Statement, if applicable), and any written statement that the cost impact of the change is immaterial. If a change in cost accounting practice is implemented without submitting the notice required by this paragraph, the CFAO may determine the change to be a failure to follow paragraph (a)(2) of the clause at FAR 52.230-2, Cost Accounting Standards; paragraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; or paragraph (a)(2) of the clause at FAR 52.230-5, Cost Accounting Standards--Educational Institution.

(1) When a description has been submitted for a change in cost accounting practice that is dependent on a contract award and that contract is subsequently awarded, notify the CFAO within 15 days after such award.

(2) For any change in cost accounting practice not covered by (b)(1) of this clause that is required in accordance with paragraphs (a)(3) and (a)(4)(i) of the clause at FAR 52.230-2; or paragraphs (a)(3), (a)(4)(i), or (a)(4)(iv) of the clause at FAR 52.230-5; submit a description of the change to the CFAO not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change.

(3) For any change in cost accounting practices proposed in accordance with paragraph (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2 and FAR 52.230-5; or with paragraph (a)(3) of the clause at FAR 52.230-3, submit a description of the change not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change. If the change includes a proposed retroactive date submit supporting rationale.

(4) Submit a description of the change necessary to correct a failure to comply with an applicable CAS or to follow a disclosed practice (as contemplated by paragraph (a)(5) of the clause at FAR 52.230-2 and FAR 52.230-5; or by paragraph (a)(4) of the clause at FAR 52.230-3)--

(i) Within 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) after the date of agreement with the CFAO that there is a noncompliance; or

(ii) In the event of Contractor disagreement, within 60 days after the CFAO notifies the

Contractor of the determination of noncompliance.

(c) When requested by the CFAO, submit on or before a date specified by the CFAO--

- (1) A general dollar magnitude (GDM) proposal in accordance with paragraph (d) or (g) of this clause. The Contractor may submit a detailed cost-impact (DCI) proposal in lieu of the requested GDM proposal provided the DCI proposal is in accordance with paragraph (e) or (h) of this clause;
- (2) A detailed cost-impact (DCI) proposal in accordance with paragraph (e) or (h) of this clause;
- (3) For any request for a desirable change that is based on the criteria in FAR 30.603-2(b)(3)(ii), the data necessary to demonstrate the required cost savings; and
- (4) For any request for a desirable change that is based on criteria other than that in FAR 30.603-2(b)(3)(ii), a GDM proposal and any other data necessary for the CFAO to determine if the change is a desirable change.

(d) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the GDM proposal shall--

- (1) Calculate the cost impact in accordance with paragraph (f) of this clause;
- (2) Use one or more of the following methods to determine the increase or decrease in cost accumulations:
 - (i) A representative sample of affected CAS-covered contracts and subcontracts.
 - (ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly-priced contracts and subcontracts.
 - (iii) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations for all affected fixed-price and flexibly-priced contracts and subcontracts;
- (3) Use a format acceptable to the CFAO but, as a minimum, include the following data:
 - (i) The estimated increase or decrease in cost accumulations by Executive agency, including any impact the change may have on contract and subcontract incentives, fees, and profits, for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly-priced contracts and subcontracts.
 - (ii) For unilateral changes, the increased or decreased costs to the Government for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly-priced contracts and subcontracts; and
- (4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(e) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the DCI proposal shall--

(1) Show the calculation of the cost impact in accordance with paragraph (f) of this clause;

(2) Show the estimated increase or decrease in cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to include--

(i) Only those affected CAS-covered contracts and subcontracts having an estimate to complete exceeding a specified amount; and

(ii) An estimate of the total increase or decrease in cost accumulations for all affected CAS-covered contracts and subcontracts, using the results in paragraph (e)(2)(i) of this clause;

(3) Use a format acceptable to the CFAO but, as a minimum, include the information in paragraph (d)(3) of this clause; and

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(f) For GDM and DCI proposals that are subject to the requirements of paragraph (d) or (e) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., whether or not the final indirect rates have been established).

(2) For unilateral changes--

(i) Determine the increased or decreased cost to the Government for flexibly-priced contracts and subcontracts as follows:

(A) When the estimated cost to complete using the changed practice exceeds the estimated cost to complete using the current practice, the difference is increased cost to the Government.

(B) When the estimated cost to complete using the changed practice is less than the estimated cost to complete using the current practice, the difference is decreased cost to the Government;

(ii) Determine the increased or decreased cost to the Government for fixed-priced contracts and subcontracts as follows:

(A) When the estimated cost to complete using the changed practice is less than the estimated cost to complete using the current practice, the difference is increased cost to the Government.

(B) When the estimated cost to complete using the changed practice exceeds the estimated cost to complete using the current practice, the difference is decreased cost to the Government;

(iii) Calculate the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased costs to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that

would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated; and

(iv) Calculate the increased cost to the Government in the aggregate.

(3) For equitable adjustments for required or desirable changes--

(i) Estimated increased cost accumulations are the basis for increasing contract prices, target prices and cost ceilings; and

(ii) Estimated decreased cost accumulations are the basis for decreasing contract prices, target prices and cost ceilings.

(g) For any noncompliant cost accounting practice subject to paragraph (b)(4) of this clause, prepare the GDM proposal as follows:

(1) Calculate the cost impact in accordance with paragraph (i) of this clause.

(2) Use one or more of the following methods to determine the increase or decrease in contract and subcontract prices or cost accumulations, as applicable:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) When the noncompliance involves cost accumulation the change in indirect rates multiplied by the applicable base for only flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease.

(3) Use a format acceptable to the CFAO but, as a minimum, include the following data:

(i) The total increase or decrease in contract and subcontract price and cost accumulations, as applicable, by Executive agency, including any impact the noncompliance may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(ii) The increased or decreased cost to the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(iii) The total overpayments and underpayments made by the Government during the period of noncompliance.

(4) When requested by the CFAO, identify all CAS-covered contracts and subcontracts.

(h) For any noncompliant practice subject to paragraph (b)(4) of this clause, prepare the DCI proposal as follows:

(1) Calculate the cost impact in accordance with paragraph (i) of this clause.

(2) Show the increase or decrease in price and cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to--

(i) Include only those affected CAS-covered contracts and subcontracts having--

(A) Contract and subcontract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase or decrease in price and cost accumulations for all affected CAS-covered contracts and subcontracts using the results in paragraph (h)(2)(i) of this clause.

(3) Use a format acceptable to the CFAO that, as a minimum, include the information in paragraph (g)(3) of this clause.

(4) When requested by the CFAO, identify all CAS-covered contracts and subcontracts.

(i) For GDM and DCI proposals that are subject to the requirements of paragraph (g) or (h) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs are incurred (i.e., whether or not the final indirect rates have been established).

(2) For noncompliances that involve estimating costs, determine the increased or decreased cost to the Government for fixed-price contracts and subcontracts as follows:

(i) When the negotiated contract or subcontract price exceeds what the negotiated price would have been had the Contractor used a compliant practice, the difference is increased cost to the Government.

(ii) When the negotiated contract or subcontract price is less than what the negotiated price would have been had the Contractor used a compliant practice, the difference is decreased cost to the Government.

(3) For noncompliances that involve accumulating costs, determine the increased or decreased cost to the Government for flexibly-priced contracts and subcontracts as follows:

(i) When the costs that were accumulated under the noncompliant practice exceed the costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice), the difference is increased cost to the Government.

(ii) When the costs that were accumulated under the noncompliant practice are less than the costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice), the difference is decreased cost to the Government.

(4) Calculate the total increase or decrease in contract and subcontracts incentives, fees, and profits associated with the increased or decreased cost to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the Contractor used a compliant practice.

(5) Calculate the increased cost to the Government in the aggregate.

(j) If the Contractor does not submit the information required by paragraph (b) or (c) of this clause within the specified time, or any extension granted by the CFAO, the CFAO may take one or both of the following actions:

(1) Withhold an amount not to exceed 10 percent of each subsequent amount payment to the Contractor's affected CAS-covered contracts, (up to the estimated general dollar magnitude of the cost impact), until such time as the Contractor provides the required information to the CFAO.

(2) Issue a final decision in accordance with FAR 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.

(k) Agree to--

(1) Contract modifications to reflect adjustments required in accordance with paragraph (a)(4)(ii) or (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with paragraph (a)(3)(i) or (a)(4) of the clause at FAR 52.230-3; and

(2) Repay the Government for any aggregate increased cost paid to the Contractor.

(l) For all subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, or 52.230-5--

(1) So state in the body of the subcontract, in the letter of award, or in both (do not use self-deleting clauses);

(2) Include the substance of this clause in all negotiated subcontracts; and

(3) Within 30 days after award of the subcontract, submit the following information to the Contractor's CFAO:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(m) Notify the CFAO in writing of any adjustments required to subcontracts under this contract and agree to an adjustment to this contract price or estimated cost and fee. The Contractor shall--

(1) Provide this notice within 30 days after the Contractor receives the proposed subcontract adjustments; and

(2) Include a proposal for adjusting the higher-tier subcontract or the contract appropriately.

(n) For subcontracts containing the clause or substance of the clause at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5, require the subcontractor to comply with all Standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier.

I.81 52.232-1 PAYMENTS. (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by

the Government if -

- (a) The amount due on the deliveries warrants it; or
- (b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

I.82 52.232-9 LIMITATION ON WITHHOLDING OF PAYMENTS. (APR 1984)

If more than one clause or Schedule term of this contract authorizes the temporary withholding of amounts otherwise payable to the Contractor for supplies delivered or services performed, the total of the amounts withheld at any one time shall not exceed the greatest amount that may be withheld under any one clause or Schedule term at that time; *provided*, that this limitation shall not apply to -

- (a) Withholdings pursuant to any clause relating to wages or hours of employees;
- (b) Withholdings not specifically provided for by this contract;
- (c) The recovery of overpayments; and
- (d) Any other withholding for which the Contracting Officer determines that this limitation is inappropriate.

I.83 52.232-11 EXTRAS. (APR 1984)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

I.84 52.232-17 INTEREST. (OCT 2008)

(a) Except as otherwise provided in this contract under a Price Reduction for Defective Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (e) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(c) *Final Decisions.* The Contracting Officer will issue a final decision as required by 33.211 if—

(1) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;

(2) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(3) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(d) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(e) Amounts shall be due at the earliest of the following dates:

- (1) The date fixed under this contract.
- (2) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(f) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

- (1) The date on which the designated office receives payment from the Contractor;
- (2) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or
- (3) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(g) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

I.85 52.232-18 AVAILABILITY OF FUNDS. (APR 1984)

Funds are not presently available for this contract. The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.

I.86 52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR. (APR 1984)

Funds are not presently available for performance under this contract beyond the current fiscal year. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond the current fiscal year, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

I.87 52.232-20 LIMITATION OF COST. (APR 1984)

(a) The parties estimate that performance of this contract, exclusive of any fee, will not cost the Government more than

- (1) the estimated cost specified in the Schedule or,
- (2) if this is a cost-sharing contract, the Government's share of the estimated cost specified in the Schedule. The Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Government's and the Contractor's share of the cost.

(b) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that -

- (1) The costs the Contractor expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified in the Schedule; or
- (2) The total cost for the performance of this contract, exclusive of any fee, will be either greater or substantially less than had been previously estimated.

(c) As part of the notification, the Contractor shall provide the Contracting Officer a revised estimate of the total cost of performing this contract.

(d) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause -

(1) The Government is not obligated to reimburse the Contractor for costs incurred in excess of (i) the estimated cost specified in the Schedule or, (ii) if this is a cost-sharing contract, the estimated cost to the Government specified in the Schedule; and

(2) The Contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of the estimated cost specified in the Schedule, until the Contracting Officer (i) notifies the Contractor in writing that the estimated cost has been increased and (ii) provides a revised estimated total cost of performing this contract. If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the Schedule.

(e) No notice, communication, or representation in any form other than that specified in paragraph (d)(2) of this clause, or from any person other than the Contracting Officer, shall affect this contract's estimated cost to the Government. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the estimated cost or, if this is a cost-sharing contract, for any costs in excess of the estimated cost to the Government specified in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination.

(f) If the estimated cost specified in the Schedule is increased, any costs the Contractor incurs before the increase that are in excess of the previously estimated cost shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.

(g) Change orders shall not be considered an authorization to exceed the estimated cost to the Government specified in the Schedule, unless they contain a statement increasing the estimated cost.

(h) If this contract is terminated or the estimated cost is not increased, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

I.88 52.232-22 LIMITATION OF FUNDS. (APR 1984)

(a) The parties estimate that performance of this contract will not cost the Government more than (1) the estimated cost specified in the Schedule or, (2) if this is a cost-sharing contract, the Government's share of the estimated cost specified in the Schedule. The Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Government's and the Contractor's share of the cost.

(b) The Schedule specifies the amount presently available for payment by the Government and allotted to this contract, the items covered, the Government's share of the cost if this is a cost-sharing contract, and the period of performance it is estimated the allotted amount will cover. The parties contemplate that the Government will allot additional funds incrementally to the contract up to the full estimated cost to the Government specified in the Schedule, exclusive of any fee. The Contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the Government under the contract approximates but does not exceed the total amount actually allotted by the Government to the contract.

(c) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred,

will exceed 75 percent of (1) the total amount so far allotted to the contract by the Government or, (2) if this is a cost-sharing contract, the amount then allotted to the contract by the Government plus the Contractor's corresponding share. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the Schedule.

(d) Sixty days before the end of the period specified in the Schedule, the Contractor shall notify the Contracting Officer in writing of the estimated amount of additional funds, if any, required to continue timely performance under the contract or for any further period specified in the Schedule or otherwise agreed upon, and when the funds will be required.

(e) If, after notification, additional funds are not allotted by the end of the period specified in the Schedule or another agreed-upon date, upon the Contractor's written request the Contracting Officer will terminate this contract on that date in accordance with the provisions of the Termination clause of this contract. If the Contractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the Contracting Officer may terminate this contract on that later date.

(f) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause -

(1) The Government is not obligated to reimburse the Contractor for costs incurred in excess of the total amount allotted by the Government to this contract; and

(2) The Contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of -

(i) The amount then allotted to the contract by the Government or;

(ii) If this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, until the Contracting Officer notifies the Contractor in writing that the amount allotted by the Government has been increased and specifies an increased amount, which shall then constitute the total amount allotted by the Government to this contract.

(g) The estimated cost shall be increased to the extent that (1) the amount allotted by the Government or, (2) if this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, exceeds the estimated cost specified in the Schedule. If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the Schedule.

(h) No notice, communication, or representation in any form other than that specified in paragraph (f)(2) of this clause, or from any person other than the Contracting Officer, shall affect the amount allotted by the Government to this contract. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the total amount allotted by the Government to this contract, whether incurred during the course of the contract or as a result of termination.

(i) When and to the extent that the amount allotted by the Government to the contract is increased, any costs the Contractor incurs before the increase that are in excess of -

(1) The amount previously allotted by the Government or;

(2) If this is a cost-sharing contract, the amount previously allotted by the Government to the contract plus the Contractor's corresponding share, shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice and directs that the increase is solely to cover termination or other specified expenses.

(j) Change orders shall not be considered an authorization to exceed the amount allotted by the Government

specified in the Schedule, unless they contain a statement increasing the amount allotted.

(k) Nothing in this clause shall affect the right of the Government to terminate this contract. If this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

(l) If the Government does not allot sufficient funds to allow completion of the work, the Contractor is entitled to a percentage of the fee specified in the Schedule equalling the percentage of completion of the work contemplated by this contract.

I.89 52.232-23 ASSIGNMENT OF CLAIMS. (JAN 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

I.90 52.232-25 PROMPT PAYMENT. (OCT 2008) ALTERNATE I (FEB 2002)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments—

(1) Due date.

(i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office is the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date

of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Certain food products and other payments.

(i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are—

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (*e.g.*, shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(ix) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (*e.g.*, 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (*e.g.*, 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer-Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(x) Any other information or documentation required by the contract (*e.g.*, evidence of shipment).

(4) *Interest penalty.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) *Computing penalty amount.* The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR Part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(6) *Discounts for prompt payment.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR Part 1315.

(7) Additional interest penalty.

(i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR Part 1315 in addition to the interest penalty amount only if—

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii) (A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall—

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible—

(1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payment.* If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) *Fast payment procedure due dates.* If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(d) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(i) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(ii) Affected contract number and delivery order number if applicable;

(iii) Affected contract line item or subline item, if applicable; and

(iv) Contractor point of contact.

(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(e) *Invoices for interim payments.* For interim payments under this cost-reimbursement contract for services—

(1) Paragraphs (a)(2), (a)(3), (a)(4)(ii), (a)(4)(iii), and (a)(5)(i) do not apply;

(2) For purposes of computing late payment interest penalties that may apply, the due date for payment is the 30th day after the designated billing office receives a proper invoice; and

(3) The contractor shall submit invoices for interim payments in accordance with paragraph (a) of FAR 52.216-7, Allowable Cost and Payment. If the invoice does not comply with contract requirements, it will be returned within 7 days after the date the designated billing office received the invoice.

I.91 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION. (OCT 2003)

(a) *Method of payment.* (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either -

- (i) Accept payment by check or some other mutually agreeable method of payment; or
- (ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) *Contractor's EFT information.* The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) *Mechanisms for EFT payment.* The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) *Suspension of payment.* If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) *Liability for uncompleted or erroneous transfers.* (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for -

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and -

- (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
- (ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment

to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.<P>

(i) *Payment information.* The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

I.92 52.233-1 DISPUTES. (JUL 2002)

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) Claim, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)(i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the

Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

I.93 52.233-3 PROTEST AFTER AWARD. (AUG 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either -

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if -

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; *provided*, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

I.94 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM. (OCT 2004)

United States law will apply to resolve any claim of breach of this contract.

I.95 952.235-70 KEY PERSONNEL. (APR 1994)

The personnel specified in Part I Section H of this contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the contractor without the written consent of the Contracting Officer: Provided, that the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by this clause. Part I Section H to this contract may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

I.96 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION. (APR 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

I.97 52.237-3 CONTINUITY OF SERVICES. (JAN 1991)

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to -

(1) Furnish phase-in training; and

(2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are

maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (*i.e.*, costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

I.98 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS. (APR 1984)

(a) Notwithstanding any other clause of this contract -

(1) The Contracting Officer may at any time issue to the Contractor a written notice of intent to disallow specified costs incurred or planned for incurrence under this contract that have been determined not to be allowable under the contract terms; and

(2) The Contractor may, after receiving a notice under subparagraph (1) above, submit a written response to the Contracting Officer, with justification for allowance of the costs. If the Contractor does respond within 60 days, the Contracting Officer shall, within 60 days of receiving the response, either make a written withdrawal of the notice or issue a written decision.

(b) Failure to issue a notice under this Notice of Intent to Disallow Costs clause shall not affect the Government's rights to take exception to incurred costs.

I.99 52.242-3 PENALTIES FOR UNALLOWABLE COSTS. (MAY 2001)

(a) *Definition.* "Proposal," as used in this clause, means either -

(1) A final indirect cost rate proposal submitted by the Contractor after the expiration of its fiscal year which -

(i) Relates to any payment made on the basis of billing rates; or

(ii) Will be used in negotiating the final contract price; or

(2) The final statement of costs incurred and estimated to be incurred under the Incentive Price Revision clause (if applicable), which is used to establish the final contract price.

(b) Contractors which include unallowable indirect costs in a proposal may be subject to penalties. The penalties are prescribed in 10 U.S.C. 2324 or 41 U.S.C. 256, as applicable, which is implemented in Section 42.709 of the Federal Acquisition Regulation (FAR).

(c) The Contractor shall not include in any proposal any cost that is unallowable, as defined in Subpart 2.1 of the FAR, or an executive agency supplement to the FAR.

(d) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal is expressly unallowable under a cost principle in the FAR, or an executive agency supplement to the FAR, that defines the allowability of specific selected costs, the Contractor shall be assessed a penalty equal to -

(1) The amount of the disallowed cost allocated to this contract; plus

(2) Simple interest, to be computed -

(i) On the amount the Contractor was paid (whether as a progress or billing payment) in excess of the amount to which the Contractor was entitled; and

(ii) Using the applicable rate effective for each six-month interval prescribed by the Secretary of the Treasury pursuant to Pub. L. 92-41 (85 Stat. 97).

(e) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal includes a cost previously determined to be unallowable for that Contractor, then the Contractor will be assessed a penalty in an amount equal to two times the amount of the disallowed cost allocated to this contract.

(f) Determinations under paragraphs (d) and (e) of this clause are final decisions within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601, *et seq.*).

(g) Pursuant to the criteria in FAR 42.709-5, the Contracting Officer may waive the penalties in paragraph (d) or (e) of this clause.

(h) Payment by the Contractor of any penalty assessed under this clause does not constitute repayment to the Government of any unallowable cost which has been paid by the Government to the Contractor.

I.100 52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS. (JAN 1997)

(a) The Contractor shall -

(1) Certify any proposal to establish or modify final indirect cost rates;

(2) Use the format in paragraph (c) of this clause to certify; and

(3) Have the certificate signed by an individual of the Contractor's organization at a level no lower than a vice president or chief financial officer of the business segment of the Contractor that submits the proposal.

(b) Failure by the Contractor to submit a signed certificate, as described in this clause, may result in final indirect costs at rates unilaterally established by the Contracting Officer.

(c) The certificate of final indirect costs shall read as follows:

Certificate of Final Indirect Costs

This is to certify that I have reviewed this proposal to establish final indirect cost rates and to the best of my knowledge and belief:

1. All costs included in this proposal (identify proposal and date) to establish final indirect cost rates for (identify period covered by rate) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) and its supplements applicable to the contracts to which the final indirect cost rates will apply; and

2. This proposal does not include any costs which are expressly unallowable under applicable cost principles of the FAR or its supplements.

Firm: _____

Signature: _____

Name of Certifying Official: _____

Title: _____

Date of Execution: _____

I.101 52.242-13 BANKRUPTCY. (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

I.102 52.243-2 CHANGES - COST-REIMBURSEMENT. (AUG 1987)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

- (1) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.
- (2) Method of shipment or packing.
- (3) Place of delivery.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the -

- (1) Estimated cost, delivery or completion schedule, or both;
- (2) Amount of any fixed fee; and
- (3) Other affected terms and shall modify the contract accordingly.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) of this clause, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance of this contract, shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until this modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this contract.

I.103 52.244-2 SUBCONTRACTS. (JUN 2007)

(a) *Definitions.* As used in this clause -

"Approved purchasing system" means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

"Consent to subcontract" means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

"Subcontract" means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (c) or (d) of this clause.

(c) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that -

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds -

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts: []

(e)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c) or (d) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting -

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or

revised prices;

(C) The reason cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (b), (c) or (d) of this clause.

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination -

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(h) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(i) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:



I.104 52.244-5 COMPETITION IN SUBCONTRACTING. (DEC 1996)

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protégé Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

I.105 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS. (MAR 2007)

(a) Definitions. As used in this clause--

"Commercial item" has the meaning contained in Federal Acquisition Regulation 2.101, Definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c)(1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212(a)).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201). Flow down as required in accordance with paragraph (g) of FAR clause 52.222-39).

(vi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631) (flow down required in accordance with paragraph (d) of FAR clause 52.247-64).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

I.106 52.245-1 GOVERNMENT PROPERTY. (JUN 2007)

(a) Definitions. As used in this clause--

"Acquisition cost" means the cost to acquire a tangible capital asset including the purchase price of the asset and costs necessary to prepare the asset for use. Costs necessary to prepare the asset for use include the cost of placing the asset in location and bringing the asset to a condition necessary for normal or expected use.

"Cannibalize" means to remove serviceable parts from one item of equipment in order to install them on another item of equipment.

"Contractor-acquired property" means property acquired, fabricated, or otherwise provided by the Contractor for performing a contract, and to which the Government has title.

"Contractor inventory" means--

(1) Any property acquired by and in the possession of a Contractor or subcontractor under a contract for which title is vested in the Government and which exceeds the amounts needed to complete full performance under the entire contract;

(2) Any property that the Government is obligated or has the option to take over under any type of contract, e.g., as a result either of any changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), before completion of the work, for the convenience or at the option of the Government; and

(3) Government-furnished property that exceeds the amounts needed to complete full performance under the entire contract.

"Contractor's managerial personnel" means the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of--

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operation at any one plant or separate location; or

(3) A separate and complete major industrial operation.

"Demilitarization" means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

"Discrepancies incident to shipment" means any differences (e.g., count or condition) between the items documented to have been shipped and items actually received.

"Equipment" means a tangible asset that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a contract. Equipment is not intended for sale, and does not ordinarily lose its identity or become a component part of another article when put into use.

"Government-furnished property" means property in the possession of, or directly acquired by, the Government and subsequently furnished to the Contractor for performance of a contract.

"Government property" means all property owned or leased by the Government. Government property includes both Government-furnished and Contractor-acquired property.

"Material" means property that may be consumed or expended during the performance of a contract, component parts of a higher assembly, or items that lose their individual identity through incorporation into an end-item. Material does not include equipment, special tooling and special test equipment.

"Nonseverable" means property that cannot be removed after construction or installation without substantial loss of value or damage to the installed property or to the premises where installed.

"Plant equipment" as used in this part, means personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

"Precious metals" means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

"Property" means all tangible property, both real and personal.

"Property Administrator" means an authorized representative of the Contracting Officer appointed in accordance with agency procedures, responsible for administering the contract requirements and obligations relating to Government property in the possession of a Contractor.

"Provide" means to furnish, as in Government-furnished property, or to acquire, as in contractor-acquired property.

"Real property" means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or plant equipment.

"Sensitive property" means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples include weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

"Surplus" property means excess personal property not required by any Federal agency as determined by the Administrator of the "General" Services Administration (GSA).

(b) Property management. (1) The Contractor shall have a system to manage (control, use, preserve, protect, repair and maintain) Government property in its possession. The system shall be adequate to satisfy the requirements of this clause. In doing so, the Contractor shall initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property, consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management except where inconsistent with law or regulation. During the period of performance, the Contractor shall disclose any significant changes to their property management system to the Property Administrator prior to implementation.

(2) The Contractor's responsibility extends from the initial acquisition and receipt of property, through stewardship, custody, and use until formally relieved of responsibility by authorized means, including delivery, consumption, expending, disposition, or via a completed investigation, evaluation, and final determination for lost, damaged, destroyed, or stolen property. This requirement applies to all Government property under the Contractor's accountability, stewardship, possession or control, including its vendors or subcontractors (see paragraph (f)(1)(v) of this clause).

(3) The Contractor shall include the requirements of this clause in all subcontracts under which Government property is acquired or furnished for subcontract performance.

(c) Use of Government property. The Contractor shall use Government property, either furnished or acquired under this contract, only for performing this contract, unless otherwise provided for in this contract or approved by the Contracting Officer. The Contractor shall not modify, cannibalize, or make alterations to Government property unless this contract specifically identifies the modifications, alterations or improvements as work to be performed.

(d) Government-furnished property. (1) The Government shall deliver to the Contractor the Government-furnished property described in this contract. The Government shall furnish related data and information needed for the intended use of the property. The warranties of suitability of use and timely delivery of Government-furnished property do not apply to property acquired or fabricated by the Contractor as contractor-acquired property and subsequently transferred to another contract with this Contractor.

(2) The delivery and/or performance dates specified in this contract are based upon the expectation that the Government-furnished property will be suitable for contract performance and will be delivered to the Contractor by the dates stated in the contract.

(i) If the property is not delivered to the Contractor by the dates stated in the contract, the Contracting Officer shall, upon the Contractor's timely written request, consider an equitable adjustment to the contract.

(ii) In the event property is received by the Contractor, or for Government-furnished property after receipt and installation, in a condition not suitable for its intended use, the Contracting Officer shall, upon the Contractor's timely written request, advise the Contractor on a course of action to remedy the problem. Such action may include repairing, replacing, modifying, returning, or otherwise disposing of the property at the Government's expense. Upon completion of the required action(s), the Contracting Officer shall consider an equitable adjustment to the contract (see also paragraph (f)(1)(ii)(A) of this clause).

(iii) The Government may, at its option, furnish property in an "as-is" condition. The Contractor will be given the opportunity to inspect such property prior to the property being provided. In such cases, the Government makes no warranty with respect to the serviceability and/or suitability of the property for contract performance. Any repairs, replacement, and/or refurbishment shall be at the Contractor's expense.

(3)(i) The Contracting Officer may by written notice, at any time--

(A) Increase or decrease the amount of Government-furnished property under this contract;

(B) Substitute other Government-furnished property for the property previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract; or

(C) Withdraw authority to use property.

(ii) Upon completion of any action(s) under paragraph (d)(3)(i) of this clause, and the Contractor's timely written request, the Contracting Officer shall consider an equitable adjustment to the contract.

(e) Title to Government property. (1) The Government shall retain title to all Government-furnished property. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(2) Fixed-price contracts. (i) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property)", are subject to the provisions of this clause.

(ii) Title to each item of equipment, special test equipment and special tooling acquired by the Contractor for the Government under this contract shall pass to and vest in the

Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(iii) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract--

(A) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and

(B) Title to all other material shall pass to and vest in the Government upon--

(1) Issuance of the material for use in contract performance;

(2) Commencement of processing of the material or its use in contract performance; or

(3) Reimbursement of the cost of the material by the Government, whichever occurs first.

(3) Title under Cost-Reimbursement or Time-and-Material Contracts or Cost-Reimbursable contract line items under Fixed-Price contracts. (i) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.

(ii) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon--

(A) Issuance of the property for use in contract performance;

(B) Commencement of processing of the property for use in contract performance; or

(C) Reimbursement of the cost of the property by the Government, whichever occurs first.

(iii) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (e)(3)(iii) (collectively referred to as "Government property)", are subject to the provisions of this clause.

(f) Contractor plans and systems. (1) Contractors shall establish and implement property management plans, systems, and procedures at the contract, program, site or entity level to enable the following outcomes:

(i) Acquisition of Property. The Contractor shall document that all property was acquired consistent with its engineering, production planning, and material control operations.

(ii) Receipt of Government Property. The Contractor shall receive Government property (document the receipt), record the information necessary to meet the record requirements of paragraph (f)(1)(iii)(A)(1) through (5) of this clause, identify as Government owned in a manner appropriate to the type of property (e.g., stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.

(A) Government-furnished property. The Contractor shall furnish a written statement to the Property Administrator containing all relevant facts, such as

cause or condition and a recommended course(s) of action, if overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

(B) Contractor-acquired property. The Contractor shall take all actions necessary to adjust for overages, shortages, damage and/or other discrepancies discovered upon receipt, in shipment of Contractor-acquired property from a vendor or supplier, so as to ensure the proper allocability and allowability of associated costs.

(iii) Records of Government property. The Contractor shall create and maintain records of all Government property accountable to the contract, including Government-furnished and Contractor-acquired property.

(A) Property records shall enable a complete, current, auditable record of all transactions and shall, unless otherwise approved by the Property Administrator, contain the following:

- (1) The name, part number and description, manufacturer, model number, and National Stock Number (if needed for additional item identification tracking and/or disposition).
- (2) Quantity received (or fabricated), issued, and balance-on-hand.
- (3) Unit acquisition cost.
- (4) Unique-item identifier or equivalent (if available and necessary for individual item tracking).
- (5) Unit of measure.
- (6) Accountable contract number or equivalent code designation.
- (7) Location.
- (8) Disposition.
- (9) Posting reference and date of transaction.
- (10) Date placed in service.

(B) Use of a Receipt and Issue System for Government Material. When approved by the Property Administrator, the Contractor may maintain, in lieu of formal property records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption.

(iv) Physical inventory. The Contractor shall periodically perform, record, and disclose physical inventory results. A final physical inventory shall be performed upon contract completion or termination. The Property Administrator may waive this final inventory requirement, depending on the circumstances (e.g., overall reliability of the Contractor's system or the property is to be transferred to a follow-on contract).

(v) Subcontractor control. (A) The Contractor shall award subcontracts that clearly identify assets to be provided and shall ensure appropriate flow down of contract terms and conditions (e.g., extent of liability for loss, damage, destruction or theft of

Government property).

(B) The Contractor shall assure its subcontracts are properly administered and reviews are periodically performed to determine the adequacy of the subcontractor's property management system.

(vi) Reports. The Contractor shall have a process to create and provide reports of discrepancies; loss, damage, destruction, or theft; physical inventory results; audits and self-assessments; corrective actions; and other property related reports as directed by the Contracting Officer.

(A) Loss, damage, destruction, or theft. Unless otherwise directed by the Property Administrator, the Contractor shall investigate and promptly furnish a written narrative of all incidents of loss, damage, destruction, or theft to the property administrator as soon as the facts become known or when requested by the Government.

(B) Such reports shall, at a minimum, contain the following information:

- (1) Date of incident (if known).
- (2) The name, commercial description, manufacturer, model number, and National Stock Number (if applicable).
- (3) Quantity.
- (4) Unique Item Identifier (if available).
- (5) Accountable Contract number.
- (6) A statement indicating current or future need.
- (7) Acquisition cost, or if applicable, estimated scrap proceeds, estimated repair or replacement costs.
- (8) All known interests in commingled property of which the Government property is a part.
- (9) Cause and corrective action taken or to be taken to prevent recurrence.
- (10) A statement that the Government will receive any reimbursement covering the loss, damage, destruction, or theft, in the event the Contractor was or will be reimbursed or compensated.
- (11) Copies of all supporting documentation.
- (12) Last known location.
- (13) A statement that the property did or did not contain sensitive or hazardous material, and if so, that the appropriate agencies were notified.

(vii) Relief of stewardship responsibility. Unless the contract provides otherwise, the Contractor shall be relieved of stewardship responsibility for Government property when such property is--

(A) Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract, including reasonable inventory adjustments of material as determined by the Property Administrator; or a Property Administrator granted relief of responsibility for loss, damage, destruction or theft of Government property;

(B) Delivered or shipped from the Contractor's plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor; or

(C) Disposed of in accordance with paragraphs (j) and (k) of this clause.

(viii) Utilizing Government property. (A) The Contractor shall utilize, consume, move, and store Government Property only as authorized under this contract. The Contractor shall promptly disclose and report Government property in its possession that is excess to contract performance.

(B) Unless otherwise authorized in this contract or by the Property Administrator the Contractor shall not commingle Government property with property not owned by the Government.

(ix) Maintenance. The Contractor shall properly maintain Government property. The Contractor's maintenance program shall enable the identification, disclosure, and performance of normal and routine preventative maintenance and repair. The Contractor shall disclose and report to the Property Administrator the need for replacement and/or capital rehabilitation.

(x) Property closeout. The Contractor shall promptly perform and report to the Property Administrator contract property closeout, to include reporting, investigating and securing closure of all loss, damage, destruction, or theft cases; physically inventorying all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual needs.

(2) The Contractor shall establish and maintain Government accounting source data, as may be required by this contract, particularly in the areas of recognition of acquisitions and dispositions of material and equipment.

(3) The Contractor shall establish and maintain procedures necessary to assess its property management system effectiveness, and shall perform periodic internal reviews and audits. Significant findings and/or results of such reviews and audits pertaining to Government property shall be made available to the Property Administrator.

(g) Systems analysis. (1) The Government shall have access to the contractor's premises and all Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Contractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(2) Records of Government property shall be readily available to authorized Government personnel and shall be safeguarded from tampering or destruction.

(3) Should it be determined by the Government that the Contractor's property management practices are inadequate or not acceptable for the effective management and/or control of Government property under this contract, and/or present an undue risk to the Government, the Contractor shall immediately take all necessary corrective actions as directed by the Property Administrator.

(4) The Contractor shall ensure Government access to subcontractor premises, and all Government property located at subcontractor premises, for the purposes of reviewing, inspecting and evaluating the subcontractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(h) Contractor Liability for Government Property. (1) Unless otherwise provided for in the contract, the Contractor shall not be liable for loss, damage, destruction, or theft to the Government property furnished or acquired under this contract, except when any one of the following applies--

(i) The risk is covered by insurance or the Contractor is otherwise reimbursed (to the extent of such insurance or reimbursement). The allowability of insurance costs shall be determined in accordance with 31.205-19.

(ii) The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of the Contractor's managerial personnel. Contractor's managerial personnel, in this clause, means the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business; all or substantially all of the Contractor's operation at any one plant or separate location; or a separate and complete major industrial operation.

(iii) The Contracting Officer has, in writing, revoked the Government's assumption of risk for loss, damage, destruction, or theft, due to a determination under paragraph (g) of this clause that the Contractor's property management practices are inadequate, and/or present an undue risk to the Government, and the Contractor failed to take timely corrective action. If the Contractor can establish by clear and convincing evidence that the loss, damage, destruction, or theft of Government property occurred while the Contractor had adequate property management practices or the loss, damage, destruction, or theft of Government property did not result from the Contractor's failure to maintain adequate property management practices, the Contractor shall not be held liable.

(2) The Contractor shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. The Contractor shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Property Administrator directs.

(3) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damage, destruction, or theft of Government property.

(4) Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.

(i) Equitable adjustment. Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. The right to an equitable adjustment shall be the Contractor's exclusive remedy and the Government shall not be liable to suit for breach of contract for the following:

(1) Any delay in delivery of Government-furnished property.

(2) Delivery of Government-furnished property in a condition not suitable for its intended use.

(3) An increase, decrease, or substitution of Government-furnished property.

(4) Failure to repair or replace Government property for which the Government is responsible.

(j) Contractor inventory disposal. Except as otherwise provided for in this contract, the Contractor shall not dispose of Contractor inventory until authorized to do so by the Plant Clearance Officer.

(1) Scrap to which the Government has obtained title under paragraph (e) of this clause.

(i) Contractor with an approved scrap procedure.

(A) The Contractor may dispose of scrap resulting from production or testing under this contract without Government approval. However, if the scrap requires demilitarization or is sensitive property, the Contractor shall submit the scrap on an inventory disposal schedule.

(B) For scrap from other than production or testing the Contractor may prepare scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures), except that inventory disposal schedules shall be submitted for scrap aircraft or aircraft parts and scrap that--

- (1) Requires demilitarization;
- (2) Is a classified item;
- (3) Is generated from classified items;
- (4) Contains hazardous materials or hazardous wastes;
- (5) Contains precious metals; or
- (6) Is dangerous to the public health, safety, or welfare.

(ii) Contractor without an approved scrap procedure. The Contractor shall submit an inventory disposal schedule for all scrap. The Contractor may not dispose of scrap resulting from production or testing under this contract without Government approval.

(2) Predisposal requirements. (i) Once the Contractor determines that Contractor-acquired property is no longer needed for contract performance, the Contractor in the following order of priority--

- (A) May contact the Contracting Officer if use of the property in the performance of other Government contracts is practical;
- (B) May purchase the property at the acquisition cost; or
- (C) Shall make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices).

(ii) The Contractor shall list, on Standard Form 1428, Inventory Disposal Schedule, property that was not used in the performance of other Government contracts under paragraph (j)(2)(i)(A) of this clause, property that was not purchased under paragraph (j)(2)(i)(B) of this clause, and property that could not be returned to a supplier under paragraph (j)(2)(i)(C) of this clause.

(3) Inventory disposal schedules. (i) The Contractor shall use Standard Form 1428, Inventory Disposal Schedule, to identify--

(A) Government-furnished property that is no longer required for performance of this contract, provided the terms of another Government contract do not require the Government to furnish that property for performance of this contract;

(B) Contractor-acquired property, to which the Government has obtained title under paragraph (e) of this clause, which is no longer required for performance of that contract; and

(C) Termination inventory.

(ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government.

(iii) Unless the Plant Clearance Officer has agreed otherwise, or the contract requires electronic submission of inventory disposal schedules, the Contractor shall prepare separate inventory disposal schedules for--

(A) Special test equipment with commercial components;

(B) Special test equipment without commercial components;

(C) Printing equipment;

(D) Information technology (e.g., computers, computer components, peripheral equipment, and related equipment);

(E) Precious metals;

(F) Nonnuclear hazardous materials or hazardous wastes; or

(G) Nuclear materials or nuclear wastes.

(iv) The Contractor shall describe the property in sufficient detail to permit an understanding of its intended use. Property with the same description, condition code, and reporting location may be grouped in a single line item.

(4) Submission requirements. The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than--

(i) 30-days following the Contractor's determination that a Government property item is no longer required for performance of this contract;

(ii) 60 days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or

(iii) 120 days, or such longer period as may be approved by the Termination Contracting Officer following contract termination in whole or in part.

(5) Corrections. The Plant Clearance Officer may--

(i) Reject a schedule for cause (e.g., contains errors, determined to be inaccurate); and

(ii) Require the Contractor to correct an inventory disposal schedule.

(6) Postsubmission adjustments. The Contractor shall notify the Plant Clearance Officer at least 10 working days in advance of its intent to remove an item from an approved inventory disposal

schedule. Upon approval of the Plant Clearance Officer, or upon expiration of the notice period, the Contractor may make the necessary adjustments to the inventory schedule.

(7) Storage. (i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to furnish disposal instructions within 120 days following acceptance of an inventory disposal schedule may entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day.

(ii) The Contractor shall obtain the Plant Clearance Officer's approval to remove Government property from the premises where the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage facility shall be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability for such property under this contract.

(8) Disposition instructions. (i) If the Government does not furnish disposition instructions to the Contractor within 45 days following acceptance of a scrap list, the Contractor may dispose of the listed scrap in accordance with the Contractor's approved scrap procedures.

(ii) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Contractor inventory as directed by the Plant Clearance Officer. If not returned to the Government, the Contractor shall remove and destroy any markings identifying the property as U.S. Government-owned property prior to its disposal.

(iii) The Contracting Officer may require the Contractor to demilitarize the property prior to shipment or disposal. In such cases, the Contractor may be entitled to an equitable adjustment under paragraph (i) of this clause.

(9) Disposal proceeds. As directed by the Contracting Officer, the Contractor shall credit the net proceeds from the disposal of Contractor inventory to the contract, or to the Treasury of the United States as miscellaneous receipts.

(10) Subcontractor inventory disposal schedules. The Contractor shall require its Subcontractors to submit inventory disposal schedules to the Contractor in accordance with the requirements of paragraph (j)(4) of this clause.

(k) Abandonment of Government property. (1) The Government shall not abandon sensitive Government property or termination inventory without the Contractor's written consent.

(2) The Government, upon notice to the Contractor, may abandon any nonsensitive Government property in place, at which time all obligations of the Government regarding such property shall cease.

(3) The Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances; however, if Government--furnished property is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (i) of this clause may properly include restoration or rehabilitation costs.

(l) Communication. All communications under this clause shall be in writing.

(m) Contracts outside the United States. If this contract is to be performed outside of the United States and its outlying areas, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

I.107 52.246-25 LIMITATION OF LIABILITY - SERVICES. (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that -

- (1) Occurs after Government acceptance of services performed under this contract; and
- (2) Results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of -

- (1) All or substantially all of the Contractor's business;
- (2) All or substantially all of the Contractor's operations at any one plant, laboratory, or separate location at which the contract is being performed; or
- (3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through the Contractor's performance of services or furnishing of materials under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects and deficiencies in, services performed or materials furnished under this contract.

I.108 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS. (JUN 2003)

(a) Definitions. As used in this clause--

"International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

(d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation): *(State reasons)*:

(End of statement)

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

I.109 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS.
(FEB 2006)

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. Appx 1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessel are -

- (1) Acquired for a U.S. Government agency account;
- (2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;
- (3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies; or
- (4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the United States.

(b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) of this clause, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(c)(1) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to both -

- (i) The Contracting Officer, and
- (ii) The:

Office of Cargo Preference
Maritime Administration (MAR-590)
400 Seventh Street, SW
Washington DC 20590.

Subcontractor bills of lading shall be submitted through the Prime Contractor.

(2) The Contractor shall furnish these bill of lading copies (i) within 20 working days of the date of loading for shipments originating in the United States, or (ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

- (A) Sponsoring U.S. Government agency.
- (B) Name of vessel.
- (C) Vessel flag of registry.
- (D) Date of loading.
- (E) Port of loading.
- (F) Port of final discharge.
- (G) Description of commodity.
- (H) Gross weight in pounds and cubic feet if available.
- (I) Total ocean freight revenue in U.S. dollars.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(4).

(e) The requirement in paragraph (a) does not apply to -

- (1) Cargoes carried in vessels as required or authorized by law or treaty;
- (2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353);
- (3) Shipments of classified supplies when the classification prohibits the use of non-Government vessels; and
- (4) Subcontracts or purchase orders for the acquisition of commercial items unless--
 - (i) This contract is--
 - (A) A contract or agreement for ocean transportation services; or
 - (B) A construction contract; or
 - (ii) The supplies being transported are--
 - (A) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontracts items for f.o.b. destination shipment); or
 - (B) Shipped in direct support of U.S. military--
 - (1) Contingency operations;

(2) Exercises; or

(3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the:

Office of Costs and Rates
Maritime Administration
400 Seventh Street, SW
Washington DC 20590

Phone: (202) 366-4610.

I.110 952.247-70 FOREIGN TRAVEL. (DEC 2000)

Contractor foreign travel shall be conducted pursuant to the requirements contained in DOE Order 551.1, Official Foreign Travel, or any subsequent version of the order in effect at the time of award.

I.111 52.249-6 TERMINATION (COST-REIMBURSEMENT). (MAY 2004)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if -

(1) The Contracting Officer determines that a termination is in the Government's interest; or

(2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.

(b) The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the Excusable Delays clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.

(c) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of

subcontracts, the cost of which would be reimbursable in whole or in part, under this contract; approval or ratification will be final for purposes of this clause.

(6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, deliver to the Government -

(i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated;

(ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government; and

(iii) The jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for this contract, the cost of which the Contractor has been or will be reimbursed under this contract.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (c)(6) of this clause; *provided, however*, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(d) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(e) After expiration of the plant clearance period as defined in Subpart 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(f) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(g) Subject to paragraph (f) of this clause, the Contractor and the Contracting Officer may agree on the whole or any part of the amount to be paid (including an allowance for fee) because of the termination. The

contract shall be amended, and the Contractor paid the agreed amount.

(h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount of costs and/or fee to be paid because of the termination of work, the Contracting Officer shall determine, on the basis of information available, the amount, if any, due the Contractor, and shall pay that amount, which shall include the following:

(1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue those costs as rapidly as practicable.

(2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (h)(1) of this clause.

(3) The reasonable costs of settlement of the work terminated, including -

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory. If the termination is for default, no amounts for the preparation of the Contractor's termination settlement proposal may be included.

(4) A portion of the fee payable under the contract, determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of articles (or amount of services) of a like kind required by the contract.

(5) If the settlement includes only fee, it will be determined under subparagraph (h)(4) of this clause.

(i) The cost principles and procedures in Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (f), (h), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (f) and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (f), (h) or (l) of this clause, the Government shall pay the Contractor -

(1) The amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken; or

(2) The amount finally determined on an appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted -

(1) All unliquidated advance or other payments to the Contractor, under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Government.

(l) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer shall amend the contract to reflect the agreement.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

I.112 52.249-14 EXCUSABLE DELAYS. (APR 1984)

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless -

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the

causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

I.113 52.251-1 GOVERNMENT SUPPLY SOURCES. (APR 1984)

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. Such property shall not be considered to be "Government-furnished property," as distinguished from "Government property." The provisions of the clause entitled "Government Property," except its paragraphs (a) and (b), shall apply to all property acquired under such authorization.

I.114 952.251-70 CONTRACTOR EMPLOYEE TRAVEL DISCOUNTS. (DEC 2000)

(a) The contractor shall take advantage of travel discounts offered to Federal contractor employee travelers by AMTRAK, hotels, motels, or car rental companies, when use of such discounts would result in lower overall trip costs and the discounted services are reasonably available. Vendors providing these services may require the contractor employee to furnish them a letter of identification signed by the authorized Contracting Officer.

(b) Contracted airlines. Contractors are not eligible for GSA contract city pair fares.

(c) Discount rail service. AMTRAK voluntarily offers discounts to Federal travelers on official business and sometimes extends those discounts to Federal contractor employees.

(d) Hotels/motels. Many lodging providers extend their discount rates for Federal employees to Federal contractor employees.

(e) Car rentals. The Military Traffic Management Command (MTMC) of the Department of Defense negotiates rate agreements with car rental companies that are available to Federal travelers on official business. Some car rental companies extend those discounts to Federal contractor employees.

(f) Obtaining travel discounts.

(1) To determine which vendors offer discounts to Government contractors, the contractor may review commercial publications such as the Official Airline guides Official Traveler, Innovata, or National Telecommunications. The contractor may also obtain this information from GSA contract Travel Management Centers or the Department of Defense's Commercial Travel Offices.

(2) The vendor providing the service may require the Government contractor to furnish a letter signed by the Contracting Officer. The following illustrates a standard letter of identification.

OFFICIAL AGENCY LETTERHEAD

TO: Participating Vendor

SUBJECT: OFFICIAL TRAVEL OF GOVERNMENT CONTRACTOR

(FULL NAME OF TRAVELER), the bearer of this letter is an employee of (COMPANY NAME) which has a contract with this agency under Government contract (CONTRACT NUMBER). During the period of the contract (GIVE DATES), AND WITH THE APPROVAL OF THE CONTRACT VENDOR, the employee is eligible and authorized to use available travel discount rates in accordance with Government contracts and/or agreements. Government Contract City Pair fares are not available to Contractors.

SIGNATURE, Title and telephone number of Contracting Officer

I.115 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES. (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any [insert regulation name] (48 CFR []) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

I.116 52.253-1 COMPUTER GENERATED FORMS. (JAN 1991)

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, *provided* there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(c) If the Contractor submits a computer generated version of a form that is different than the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

PART III SECTION J - LIST OF ATTACHMENTS

J.1 LIST OF ATTACHMENTS/EXHIBITS

ATTACHMENT	DESCRIPTION
A-1	NETL Introduction
A-2	Statement of Work
B	Reporting Requirements
B-1	Cost Management/Invoice Detail/Summary Staffing Report Forms
B-2	Contract Organization Chart
C	Performance Evaluation Plan
D	Position Qualifications
E	Wage Determinations/Collective Bargaining Agreements
F	Sample Small Business Subcontracting Plan

J2 ATTACHMENT A-1 – NETL INTRODUCTION

INTRODUCTION TO THE NATIONAL ENERGY TECHNOLOGY LABORATORY

The National Energy Technology Laboratory (NETL) is a U.S. Department of Energy (DOE) national laboratory that produces technological solutions to America's energy challenges. The laboratory focuses on finding tools and processes that simultaneously address the three overarching issues that characterize today's energy situation in the United States: energy affordability, supply security, and environmental quality.

NETL has three research laboratories that span the Nation. Laboratories in Pittsburgh, Pa., and Morgantown, W.Va., conduct a broad range of research and development (R&D) to increase the supply of traditional energy resources, improve the efficiency and environmental performance of thermoelectric power generation, and help end-users to conserve energy. Researchers at the NETL laboratory in Albany, Ore., focus on developing advanced materials for use in the energy industry. NETL also has small offices in Tulsa, Okla., and Fairbanks, Alaska, that address challenges unique to those energy-rich regions. All five locations support DOE's mission to advance the national, economic, and energy security of the United States.

As the only national laboratory owned and operated by DOE, NETL is unique in how it conducts business and in the relationships it forms with industry, academia, research organizations, and other national laboratories. First and foremost, the laboratory conducts cutting-edge R&D on site. About one quarter of NETL's 1,200 Federal and contractor employees are engaged in research with industry, government, and academic partners to solve problems that would otherwise become barriers to commercializing advanced power systems, fuels, and environmental and waste-management technologies. NETL research includes collaboration with businesses, universities and non-profit entities.

In addition to performing research on site, NETL applies its extensive technology- and project-management capabilities to shape, fund, and manage research that is conducted throughout the United States and in more than 40 foreign countries. The laboratory's research portfolio includes more than 1,300 projects, with a total award value of nearly \$11 billion and private sector cost-sharing of nearly \$6 billion. To secure these projects, NETL uses a variety of contracting arrangements with corporations, small businesses, universities, non-profit organizations, and other national laboratories and government agencies.

NETL also provides strategic information and analysis to the policymakers responsible for providing direction and funds to ensure that America has a continuing supply of clean, affordable energy. NETL provides (1) expert scientific and engineering analysis of technology options, developmental pathways, energy scenarios, and technical advancements; (2) programmatic and socio-economic impact analysis and benefits appraisals; (3) expert simulation and modeling using state-of-the-art systems; and (4) analysis of energy systems infrastructure interdependencies, including policy implications.

NETL is a proactive supporter of educational initiatives at all levels. NETL funds nearly 500 R&D projects at U.S. universities to advance energy science and technology and to provide a trained workforce for the energy industry of the future. NETL's outreach efforts also include a speakers' bureau, visiting professor program, Adopt-a-School program, high school science bowls, in-school demonstrations, computer donations to area schools, job shadowing for high school students, and other initiatives that encourage careers in science and engineering. NETL contractors will be required to support NETL in its educational outreach activities.

It is expected that NETL's site-support contractors will provide world-class expertise in disciplines related to research and technology, business and economics, the environment, education, and energy markets to achieve highly credible results and performance.

NETL is organized into seven subordinate Offices or Centers:

- **Strategic Center for Natural Gas and Oil (SCNGO)** integrates all elements of DOE's natural gas and oil research. SCNGO is charged with implementing science and technology development to resolve the

environmental, supply, and reliability constraints of producing and using oil and gas resources—resources that account for more than 60 percent of the energy consumed in the United States. With core competencies and expertise in all aspects of natural gas and oil, SCNGO investigates and manages R&D leading to improved natural gas and oil production and use. SCNGO invests in projects that promise tangible benefits to the American people, including a cleaner environment and increased domestic natural gas and oil production. [SCNGO organizational chart \[PDF-13KB\]](#)

- **Strategic Center for Coal (SCC)** works to ensure national energy security and economic prosperity through production of clean, affordable electricity and fuels from coal, the Nation’s most abundant energy resource. SCC is charged with implementing research, development, and demonstration to resolve the environmental, supply, and reliability constraints of producing and using coal resources. Technologies that allow the environmentally responsible use of coal will allow the United States to meet growing electricity demand. [SCC organizational chart \[PDF-17KB\]](#)
- **Office of Systems, Analyses and Planning (OSAP)** conducts studies of complex, large systems—such as industrial or ecological processes—and the interactions among those systems, including social, economic, political, regulatory, technological, design, and management institutions. The complex nature of these subjects requires an interdisciplinary approach. System studies provide input to decisions on issues such as national plans and programs, resource use and environmental and energy security policies, and deployment of energy technology. System studies are also used to support planning exercises at various organizational levels. [OSAP organization chart \[PDF-14KB\]](#)
- **Project Management Center (PMC)** harnesses expertise and talent for non-fossil-energy research, development, and demonstration projects, including those with other Federal organizations such as the Office of Electricity Delivery and Energy Reliability, the Department of Homeland Security, and the Office of Energy Efficiency and Renewable Energy. PMC performs overall management and implementation of these customers’ advanced initiatives, providing technical expertise, analytical tools, and a full suite of implementation skills. [PMC organization chart \[PDF-17KB\]](#)
- **Office of Research and Development (ORD)** performs R&D in fossil energy and environmental science. Building on NETL’s historic strengths and competencies, ORD focuses on four research topics recognized as important issues for the 21st century:
 - *Computational and Basic Sciences* leads to tools that enable more rapid and efficient scale-up of new sub-systems, devices and components, to enable more cost effective demonstration of new technologies.
 - *Energy System Dynamics* focuses on development of technologies for clean, efficient, fuel flexible power generation, including advanced gas turbines and fuel cells, hybrid systems, gasification systems (coal and biomass), and CO2 capture technologies.
 - *Geological and Environmental Systems* focuses on the minimization and abatement of environmental problems associated with the development and use of fossil fuels.
 - *Materials Science* specializes in life-cycle research of most metals, alloys, and ceramics, and the recycling and remediation of waste streams associated with these processes.[ORD organization chart \[PDF-29KB\]](#)
- **Office of Institutional and Business Operations (OIBO)** plans, directs, and coordinates administrative, operational, construction, and staff support activities for NETL. OIBO’s responsibilities include—
 - Organization and human resource management.
 - The laboratory’s Chief Financial Officer function.
 - Budgetary and financial analyses and administration.
 - Information technology management, maintenance, and implementation.
 - Execution of NETL’s environment, safety, and health program, including compliance and remediation.
 - Acquisition and assistance services.
 - Site management, including design, construction, operation, and maintenance of NETL facilities.

- Security services.
- Real and personal property management. [OIBO organization chart \[PDF-30KB\]](#)
- **The Office of Crosscutting Functions (OCF)** plans, directs, and coordinates policy, administrative, and site-support contract management activities that crosscut laboratory activities. The office provides policy direction for the Federal project management function, performance measurement, security services, and site-support contract management. Particular functional and technical analysts participate individually or with teams to ensure timely information exchange, and to coordinate responses to action items affecting DOE. [OCF organization chart \[PDF-18KB\]](#)

Figure 1 below shows FY2008 NETL budget information. Non Fossil Energy (FE) funding includes funds from the Office of Energy and Efficiency and Renewable Energy (EERE), The Office of Electricity Delivery and Energy Reliability (OE) and other federal agencies.

NETL FY 2008 Budget: \$1,171 Million

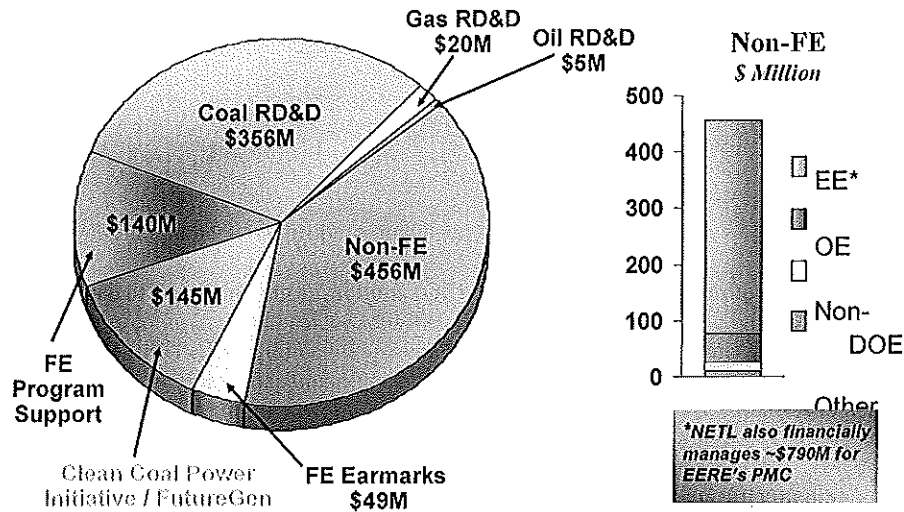


Figure 1. NETL Budget for FY2008

J3 ATTACHMENT A-2 – STATEMENT OF WORK

STATEMENT OF WORK

RESEARCH AND ENGINEERING SERVICES (RES)
FOR THE DEPARTMENT OF ENERGY'S (DOE)
NATIONAL ENERGY TECHNOLOGY LABORATORY (NETL)

I. Purpose. The purpose of this contract is to provide the necessary skilled personnel, facilities, equipment, materials, supplies, and services to support NETL in its implementation of assigned basic, applied, and technology development based energy research, and corresponding infrastructure responsibilities. Work will be performed at NETL's Office of Research and Development (ORD) sites located at: Pittsburgh, Pennsylvania; Morgantown, West Virginia; and Albany, Oregon; or at other field locations identified and approved by DOE's authorized Contracting Officer's Representative (COR) and/or Contracting Officer's Technical Representative (COTR).

II. Objective. The objective of this contract is to support NETL in its implementation of authorized on-site research and technology development in a manner that: 1) protects the safety and health of the public, the contractor and its subcontractor's employees, and DOE personnel; 2) respects and protects the environment; 3) instills public confidence; 4) fortifies and increases the Nation's engineering and scientific foundations; 5) effectively supports DOE's efforts to provide energy security; 6) effectively transfers NETL's technology to the private sector.

III. Contract Structure. NETL's Office of Research and Development (ORD) is responsible for planning and implementing on-site research programs and stewardship of all associated project-specific and general laboratory infrastructure. The research and associated infrastructure is managed and conducted by Federal employees with support from Contractor staff. NETL is the lead research and development laboratory under the Office of Fossil Energy (FE) within DOE, and its activities are designed to accelerate development of energy related technologies to meet the nation's needs for reliable, clean, efficient energy systems with minimal environmental footprint. In addition, NETL engages in other research complementary to its mission, including reimbursable work and work for others.

The vast majority of DOE FE research performed within NETL ORD is organized into one of four Focus Areas, and conducted within one of ten operating Divisions. These Focus Areas comprise related fields of experience, activity, or knowledge that generally align with one or more of the funding lines that are dictated by Congressional appropriation and make up the DOE FE research program. They provide a technical, rather than administrative, rationale for organizing research, and assist in ensuring that projects are funded from appropriate budget lines. A description of the current Focus Areas can be found on the NETL web site at: http://www.netl.doe.gov/onsite_research/index.html.

The Contractor shall perform work on a contract line item number (CLIN) basis. The Contract will contain six (6) CLIN's. Five of these CLIN's are considered "research CLIN's" and will comprise support for NETL ORD research efforts as well as any related activities (such as project-specific infrastructure) directly attributable to that effort. Contractor support for those support activities not associated with a specific project will be carried out within the remaining CLIN (designated as CLIN 1), titled "NETL ORD General Infrastructure and Logistics Support." Of the five research CLIN's, four (CLIN's 2 through 5) will align with current NETL Focus Areas, while the final CLIN (CLIN 6), will comprise those efforts (such as work for others), falling outside of a NETL Focus Area. This method of organizing CLIN's will facilitate management of the research portfolio as well as funding from the appropriate funding line. However, as national energy priorities evolve, NETL programmatic needs are expected to change. As this occurs, the CO may revise existing the CLIN structure in order to realign priorities and facilitate change control.

In contrast to CLIN structure, the work Scope is better defined in terms of work functions or elements, as nature of the functions performed by the Contractor are expected to remain constant throughout the duration of the Contract. Scope functional needs have been grouped into four primary categories. Each functional category supports NETL research functions in a distinct manner, requiring its own specific mix of skills and capabilities. The four categories of functional need are:

- Research Services,

- Research Infrastructure Support,
- EH&S and QC Support, and
- Logistical and Technical Coordination Support.

It is important to note that any scope functional work elements may be performed under any CLIN. However, in the normal course of operation, “Research Services” are expected to be performed in support of all CLIN’s except for CLIN 1, “NETL General Infrastructure and Logistics Support.” “Research Infrastructure Support” is expected to be performed in all CLIN’s, with support directly attributable to a specific research effort performed within that research CLIN (CLIN’s 2 through 6), and that support not directly attributable to a specific research effort performed within CLIN 1. “EH&S and QC Support,” and “Logistical and Technical Coordination Support” will be handled in much the same way as “Research Infrastructure Support,” although it is expected that the majority of this type of work will be performed within CLIN 1.

IV. CLIN 1: NETL ORD General Infrastructure and Logistics Support. This CLIN supports the management and implementation of general NETL ORD infrastructure and logistics activities not attributable to a specific research project effort. It includes the maintenance, operation and upkeep of ancillary facilities, including but not limited to machine shops, calibration /instrumentation shops, welding facilities, gas compression facilities, gas distribution networks, gas cylinder and bulk gas support, electrical, analytical services, control system, data collection infrastructure support, R&D personnel lab coat /uniform management, and those other facilities serving a wide cross section of NETL ORD projects. It includes design, construction and preventative maintenance support for those parts of high-performance and research computing infrastructure not directly attributable to specific computational chemistry and modeling projects. It includes general laboratory infrastructure design, fabrication, maintenance and demolition support, such as electrical, HVAC, piping, plumbing, carpentry, painting, flooring, and standard case work not attributable to a specific research project. It includes policy compliance implementation and oversight for activities such as hazardous materials, chemical handling, waste disposal, chemical hygiene, NETL safety analysis and review system (SARS) permitting, federal/state/local permitting and compliance programs, safety training, quality assurance and quality control operations. It includes logistical and technical coordination support such as management of the Contractor’s NETL research portfolio and workforce, management of Contractor work control processes and systems, support of NETL ORD Front Office activities, internship programs, business management and intellectual property issues, including patents, licensing, and technology transfer activities.

In summary, CLIN 1 supports the longer term and crosscutting functions that go on within NETL ORD. It may be thought of as part of the “indirect costs” associated with NETL on-site research. In so doing, CLIN 1 comprises the following functional areas:

A. Research Services. In some circumstances, CLIN 1 may include elements of Research Services, most commonly those involved with the support of higher level planning exercises as well as the development of research-based options to advance DOE program goals. Although any of the functions of Research Services may take place under CLIN 1, the majority of Research Services work is expected to be performed in CLIN’s 2 through 6. As such, the detailed description of those functions and their elements has been placed in Section V. A., so as to better facilitate understanding of the Contract structure.

B. Research Infrastructure Support. In order to sustain an outstanding research and development program, the Laboratory must possess a solid underlying research infrastructure. Research infrastructure is defined as those physical components (laboratories, instruments, test units, computational facilities, shops, etc.) and services that must be in place prior to commencing safe, high quality research operations. Such facilities and services must be available when needed and capable of carrying out their intended task.

1. Context of Research Infrastructure Support. Research infrastructure support shall consist of bringing R&D facilities into a state of readiness for use by researchers and maintaining them in that state as long as is required.

Research infrastructure support shall consist of the various disciplines required to cover the entire life cycle of a research project from conceptualization through decommissioning and dismantling. It includes engineering, detailed design, and drafting service for NETL test units. It also may entail

staffing and maintenance support for instrumental, laboratory, and process unit facilities. High performance and research computing requires support for both hardware and software infrastructure. It also includes assistance with the installation and set up of new computational hardware and software as required for research activities. Analytical and ancillary services comprise those laboratories and facilities not associated with a particular research project but that provide services for enough projects that an infrastructure (e.g., analytical facilities, service shops, compressed gases, etc.) or processes (service contracts) is maintained on site. Laboratory and facility infrastructure consists of those physical structures, systems, and components not associated with a specific research operation but that directly or indirectly impact the ability of NETL to conduct research. The boundaries between ORD's infrastructure responsibilities and NETL's Site Operations Division's responsibilities can be found in the Site Support Contractor Solicitation Electronic Reading Room at: <http://www.netl.doe.gov/business/solicitations/ssc2008/>.

Longer term infrastructure needs or those affecting one or more projects are tracked using a "R&D Facility Management Plan." This plan is fed by input from ORD Focus Area Leaders, Division Directors, and other Federal staff. Within this plan, appropriate Contractor roles for implementation are defined. Contractor support requires a high degree of coordination with ongoing and/or planned research activities so as not to adversely impact or delay project performance.

The primary location of research infrastructure operations will be on-site, but the Contractor shall also, on request, support project specific and test unit infrastructure at off-site locations, including field testing sites.

Descriptions of current NETL laboratory facilities and test units can be found on the NETL web site at: http://www.netl.doe.gov/onsite_research/capabilities.html.

Descriptions of current NETL computing capabilities can be found on the NETL web site at: http://www.netl.doe.gov/onsite_research/Facilities/cluster.html.

2. Work Elements of Research Infrastructure Support. Contractor activities anticipated to accomplish the contract scope include but are not limited to:

- a) Project-Specific and Test Unit Infrastructure Support
 - (1) Engineering and design of new and/or modified laboratory equipment and test units, including cost estimating, engineering analysis, and development of detailed process and instrumentation drawings (P&IDs)
 - (2) Specifying and obtaining devices, equipment, services, supplies, and materials associated with research and development operations, including the preparation of purchase requisitions
 - (3) Fabrication, installation, startup, shakedown, operations, maintenance, repair, modification, shut down, mothballing, decommissioning, dismantlement, and disposal/excess of test units, research apparatuses, sensors, instruments, vessels, reactors, infrastructure, or other necessary research and development equipment and facilities
 - (4) Operation of laboratory units, acquiring, recording, reporting, and archiving of data as instructed by research personnel
 - (5) Programming, setting-up, operating, maintaining and updating process control systems and data acquisition systems
- b) High Performance Computing Infrastructure Support
 - (1) Providing hardware and software support for setup and operation of R&D research computer and visualization systems, including scientific local area networks, NETL computer clusters, individual research workstations, RAID data storage systems, and visualization laboratory facilities
 - (2) Providing technical and administrative support for the specialized computer hardware, software, archival, and documentation systems used in the performance of computational and modeling based research project activities

- (3) Developing requirements and specifications for purchases of research computer systems and software
- (4) Setting up and maintaining network security for NETL scientific and research computer systems, and providing engineering support to address cyber threats and the increasing number of regulations related to cyber security
- (5) Providing hardware and software support for accessing external computing resources from all NETL R&D sites via high speed connections
- c) Ancillary Services Infrastructure Support
 - (1) Performing analytical measurement of physical and chemical properties of materials utilized in and generated by NETL ORD operations.
 - (2) Performing calibrations, preventative maintenance and upgrading hardware and software required for on-site measurement and data analysis.
 - (3) Labeling, shipping, data compilation and data reporting of the samples analyzed by off-site laboratories
 - (4) Maintaining and upgrading hardware and software required for on-site measurement and data analysis
 - (5) Providing fabrication services such as machining, welding, instrumentation and electrical services for NETL ORD operations
 - (6) Operating and maintaining compressed gas cylinder storage areas and services, including the receiving, storing, distributing, inventorying, removing, and disposing of compressed and liquefied gases
 - (7) Operating on-site machine shops, welding shops, and instrumentation/electrical shops.
 - (8) Providing access to specialty services and supplies (e.g., glassblowing services, dry ice, etc.) not available on site.
 - (9) Providing and maintaining (cleaning) work uniforms and lab coats to NETL ORD personnel (both Federal and Contractor).
- d) Laboratory and Facilities Infrastructure Support
 - (1) Development of implementation plans with engineering support (mechanical, HVAC, electrical, civil, instruments & controls, structural and drafting) for R&D facilities in accordance with applicable codes, standards, polices and best industry practices.
 - (2) Drafting support related to architectural, civil, electrical, instrumentation (P&ID), mechanical, piping and process flow diagrams (PFD), and structural for construction of and alterations to research facilities.
 - (3) Acquisition and installation of equipment, services, supplies, and materials associated with research and development facilities
 - (4) Fabrication, maintenance, and disassembly/ decommissioning of NETL facilities, including but not limited to:
 - (a) Electrical
 - (b) HVAC
 - (c) Piping
 - (d) Plumbing
 - (e) Welding
 - (f) Machining
 - (g) Instrumentation
 - (h) Carpentry
 - (i) Painting
 - (j) Flooring
 - (5) Performing independent assessments, validations, assessments of project cost estimates and schedules, uncertainty and project technical risk analyses, and cost risk analyses
 - (6) Operation and maintenance of site specific utility headers, including but not limited to compressed air delivery systems, nitrogen, hydrogen, argon, process cooling water supply and return, and high pressure steam.

- e) Property Management and Life Cycle Asset Management Support
 - (1) Performing all aspects of Life-Cycle Asset Management as practiced in NETL ORD
 - (2) Providing input to the NETL Site Development Plan, the Annual Maintenance Budget, the Deferred Maintenance Reporting Requirements, and the Maintenance Crosscut Budget.
 - (3) Updating the Condition Assessment Survey (CAS) program at NETL
 - (4) Performing inspection assessments and uploading CAS data into the facility information management system (FIMS) and condition assessment information system (CAIS) databases, as appropriate.

C. Environment, Safety, and Health (ES&H) and Quality Control (QC) Support. Compliance-related activities are an essential component of NETL research and development operations in order to protect safety and health, respect and protect the environment, and instill confidence in the validity of results obtained. They involve providing oversight of NETL ORD research and R&D operations so as to maintain a safe working environment in compliance with applicable NETL policies and directives as well as ensuring the quality of products and research information.

1. Context of ES&H and QC Support. Much of the work in this area is geared toward providing assistance through consulting services and implementing requirements within existing DOE/NETL managed ES&H programs, processes, and directives, as well as the regulations, laws, and consensus standards upon which these are based. NETL adheres to the DOE principles of integrated safety management, which can be found at the DOE web site: <http://www.ocrwm.doe.gov/about/safety/ismprinciples.shtml>. A complete guide to DOE policies and procedures can be found at the DOE web site at: <http://www.hss.energy.gov/HealthSafety/ism/policy.html>.

Both research and development activities and research facility support are closely integrated with regulatory and policy compliance. In so doing, the Contractor shall adhere to all pertinent NETL ES&H Focused Standards list, derived from selected Standard References contained in NETL issued directives. Within NETL, work is conducted within a safety analysis and review system (SARS) permit process, which governs the safe operation of all on-site projects, including both research and facility work. Contractor support shall be required in the functional aspects of this SARS process as applied to NETL ORD work. NETL relies on maintaining a single culture across diverse sites and project areas in order to uphold safety standards and best operating practices. The contractor shall develop and implement a consistent approach across all NETL research sites to meet this objective.

NETL adheres to the DOE principles of quality management, which can be found at the DOE web site: <http://www.hss.energy.gov/CSA/CSP/qa/>. A complete guide to DOE policies and procedures can be found at the DOE web site at: <http://www.directives.doe.gov/>. NETL strives to produce quality products through the implementation of QA program that ensures R&D activities are designed, constructed and maintained in such a manner that published research results are reproducible and traceable. As such this program prescribes, via a graded approach, to the ten part criteria of DOE O414.1, "Quality Assurance". The contractor shall develop and implement a consistent approach across all NETL research sites to meet this objective.

2. Work Elements of ES&H and QC Support. In accomplishing the scope set forth, the Contractor shall employ the following work elements in any combination required to meet the needs defined by DOE. These support activities shall include, but are not necessarily limited to:

- a) Policy Implementation Support.
 - (1) Implementation of a contractor ES&H Program following approval by the NETL Contracting Officer's Representative
 - (2) Implementation of a contractor QA Program following approval by NETL Contracting Officer's Representative
 - (3) Implementation of NETL's Spill Prevention Control Strategy and Response Plans

- b) Chemical Handling and Hazardous Waste Management Support
 - (1) Operating and maintaining Chemical Storage and Waste Handling Facilities at all NETL sites
 - (2) Maintaining waste materials inventories (including accumulation date and material characterization and identification information).
 - (3) Permitting, compliance, monitoring, surveillance, reporting, and emergency response requirements of NETL's hazardous waste program
 - (4) Performing inspections of materials received
 - (5) Preparing hazardous waste manifests and land disposal restriction documents
 - (6) Archiving documentation according to DOE record management schedules
 - (7) Obtaining chemical analyses where needed or requested to determine chemical identity for classification as a hazardous or regulated substance
 - (8) Performing hazardous wastes packaging and labeling prior to shipping for disposal, as well as arranging (through subcontracts) shipments of hazardous and regulated substances to appropriate treatment, storage, and disposal facilities
 - (9) Maintaining a computerized chemical inventory and related material safety data sheet (MSDS) database
- c) Permitting, compliance, monitoring, surveillance, and reporting requirements of NETL's industrial hygiene program. These support activities shall include, but are not necessarily limited to:
 - (1) personal protective equipment (PPE) use
 - (2) chemical inventory programs
 - (3) hazardous communication (HAZCOM) programs
 - (4) internal audits
 - (5) asbestos sampling, monitoring, and oversight for R&D facilities
- d) Safety Support Services and ES&H Compliance Training Support.
 - (1) Preparation and review of documents and packages dealing with ES&H requirements for NETL ORD projects, such as those requirements associated with SARS, environmental management system (EMS), and conduct of operations
 - (2) Permitting, compliance, monitoring, reporting, and emergency response requirements of NETL's safety and ES&H training programs
 - (3) Design, development, and deployment of computer-based training modules as well as tracking of ES&H training
- e) Quality Assurance / Quality Control Support
 - (1) Establishing an organizational structure, functional responsibilities, levels of authority, and interfaces for those managing, performing, and assessing work
 - (2) Establishing management processes, including planning, scheduling, and providing resources for work
 - (3) Developing and implementing processes for change control
 - (4) Training and qualifying personnel to be capable of performing assigned work
 - (5) Reviewing item characteristics, process implementation, and other quality-related information to identify items, services, and processes needing improvement
 - (6) Preparing, reviewing, approving, and maintaining records, including those documents that prescribe processes, specify requirements, or establish design
 - (7) Performing work consistent with technical standards, administrative controls, and hazard controls adopted to meet regulatory or contract requirements using approved instructions, procedures, etc
 - (8) Insuring proper calibration and maintenance of equipment used for process monitoring or data collection

- (9) Identifying and controlling design interfaces
- (10) Verifying/validating the adequacy of design products using individuals or groups other than those who performed the work
- (11) Planning and conducting independent assessments to measure item and service quality and the adequacy of work performance and to promote improvement
- (12) Ensuring that managers assess their management processes and identify and correct problems that hinder the organization from achieving its objectives

D. Logistical and Technical Coordination Support. The technical breadth and logistical complexity of operations within NETL ORD will require a high degree of coordination, communication, and administration. As such, the Contractor will be responsible for coordination and integration of its various support activities, so that infrastructure support facilitates research services support, and all takes place within the parameters of NETL ES&H and quality programs. Furthermore, progress must be tracked and made known and available to potential collaborators and partners (including the commercial sector) in order to realize its full benefit.

1. Context of Logistical and Technical Coordination Support. The administration and coordination activities described in this section serve to:

- provide for a smoothly running research operation,
- ensure NETL ORD adherence to NETL safety and quality standards across all sites,
- identify new energy and related challenges to which NETL ORD expertise can be applied, and
- seek out opportunities to transfer the results of basic and applied research and technology development to the commercial sector.

Challenges inherent to this Contract include the collaborative, interdisciplinary nature of NETL on-site research projects, the breadth of subject matter addressed, the variety of facilities employed, and the multiple locations of NETL ORD research. Within this context, the Contractor shall be responsible for management of its research portfolio and workforce to ensure safety, security, fairness, quality, and productivity across all NETL research sites. At the interface with DOE, the Contractor should appear to be a single, seamless organization in its policies, procedures, management, and financial accounting. The desired outcome should integrate and target engineering, maintenance, and technical resources so as to provide a dynamic research-oriented atmosphere for R&D personnel performing on site research and on/off site collaborative efforts.

2. Work Elements of Logistical and Technical Coordination Support. In accomplishing the scope set forth, the Contractor shall employ the following work elements in any combination required to meet the needs defined by DOE. These support activities shall include, but are not necessarily limited to:

- a) Maintaining NETL work control process and systems. The Contractor shall utilize this process and systems for accepting work, obtaining approvals, scheduling work, tracking work, and close out of work. All work performed by the contractor shall conform to NETL Quality Control and Standards
- b) Management of NETL ORD property by compiling, maintaining and making available on request information pertinent to the Property Administration and Management System (PAMS). Such information includes: DOE/NETL property tag number, custodial person, location of property, and property name & description
- c) Formulating, implementing, tracking and reporting progress against NETL ORD's authorized annual research work plan
- d) Logistically and technically supporting NETL ORD in conducting annual merit reviews of its research activities
- e) Provide administrative support for NETL graduate and undergraduate student internship, postdoctoral and senior research fellowship, faculty and senior research exchange, summer research participation, and other educational outreach programs, as requested by DOE, to facilitate NETL access to top-level researchers and students

- f) Implementation of business management systems such as those involving intellectual property (e.g., patents, licensing, etc.), technology transfer, research portfolio assessment, quality assurance, processing invitational travel, processing and controlling foreign visitors, badging of the support contractor's work force
- g) Developing and implementing an approach, as approved by DOE, to transitioning and protecting intellectual property generated or received as a result of performance of the work scope (e.g. generated data, unpatented inventions, CRADA protected data, EPAAct protected data, CCPI protected data, copyrighted works, etc.)
- h) Reporting and tracking activities (e.g., publications to OSTI, tracking of metrics, completion of milestones, and other accomplishments and completion dates in automated tracking systems)
- i) Maintenance and monitoring of databases (technical publications, intellectual property, etc.)
- j) Assist in administration of NETL's technology transfer programs, including the identification of potential partnerships and collaborative opportunities that complement and/or leverage existing NETL on site research.
- k) Development of content for outreach materials (fact sheets, facilities, core competencies, technical capabilities, awards, etc.)
- l) Assist NETL through the gathering of information for the preparation of proposals (including statement of work and cost estimates) for submission to other Government or private sector funding sources and awards
- m) Hosting of foreign nationals working at NETL. This shall consist of the development and processing of the required paperwork to permit the foreign national to work on site at NETL and performing hosting activities per NETL security procedures while the FNs are on site
- n) Coordinating research projects with project SARS activities.
- o) Coordinating of research projects with related design, construction and installation activities
- p) Assistance with procurement activities for research equipment that will be used in conjunction with these research projects at NETL. This oversight shall also include any required coordination and planning for inspection activities
- q) Coordinating and planning of general training, including that related to technology transfer and intellectual property

V. CLIN 2: Computational and Basic Sciences. This CLIN supports research and project-specific infrastructure within the Computational and Basic Sciences Focus Area. Work within this area is intended to integrate physical and chemical experimental research with computational sciences as the preferred method for understanding and developing technologies, advanced materials, and multi-scale energy systems ranging from the molecular-scale to device-scale to plant-scale. The focus area has developed a strategy to assemble computational models from ab initio (atomic and molecular) through device-scale, and to integrate the device-scale models into virtual plant simulations. In concert with this modeling work, experimental R&D is conducted in selected program areas in close, often iterative, collaboration with the computational efforts. Types of work performed within the focus area include quantum mechanical simulations, multiphase flow simulations, device-scale simulations using computational fluid dynamics, advanced process engineering co-simulations, integrated virtual plant modeling, hydrogen technology research and development, natural gas hydrates research and development, validation testing at each scale, and energy infrastructure security and interdependency analysis. The focus area supports activities in coal power systems and natural gas and oil technologies, and also strives to meet national energy security goals. The long-term objective of the focus area is to develop science-based and validated computational tools to simulate and facilitate the development of clean, highly efficient energy systems of the future.

CLIN 2 comprises the following functional areas:

A. Research Services. Research, and its ability to generate knowledge in the area of fossil energy and related technologies, is the core competency of NETL's Office of Research and Development. It must be carried out with the highest degree of technical excellence, quality, and integrity. It must be able to bridge

traditional disciplines and integrate diverse skills as necessary to overcome the technical challenges of the future. In so doing, Contractor support for research services shall include, but not be limited to:

- The performance of research and development activities at all NETL ORD project locations, including both niche expertise to serve existing ORD project activities, as well as the planning, organization, and conduct of new and novel on-site research project activities assigned to the Contractor. In particular, the Contractor is expected to be assigned substantial responsibilities in the conduct of targeted fundamental research in fossil energy.
- The performance of Reimbursable Work and implementation of Work for Others. The locations for this type of work are sometimes off-site and will be specified on a case-by-case basis by the NETL COR.
- NETL ORD planning and analysis activities. NETL ORD planning and analysis is a subset of NETL strategic planning. It ensures that NETL on-site research remains responsive to DOE FE programmatic needs. Planning and analysis requires a combination of “big picture” thinking combined with an appreciation for lower level implementation. Contractor support includes the analysis of existing projects and infrastructure as well as the generation of ideas and concepts associated with developing, expanding, or pursuing new ORD research opportunities and capabilities.

1. Context of Research Services. Contractor support in the area of research services shall provide a creative, intellectual contribution to the NETL on-site research program. As such, the Contractor shall possess demonstrated institutional expertise in the application of the scientific method, a thorough understanding of the process of technology development, and a history of creation and dissemination of knowledge products. Contractor support shall:

- provide information that will accelerate technology development in the ORD or DOE research and development program,
- leverage the unique equipment, facilities, and Federal expertise already on hand at NETL, and
- broaden and develop NETL ORD on-site capabilities.

NETL ORD research projects cover the range from fundamental investigations through applied science and engineering research to technology development, and may include cooperative work with industry and other external entities. Techniques and methodologies employed include, but are not limited to, computational modeling, advanced instrumental measurements, laboratory investigations, process and device studies, and field work. Projects often crosscut a variety of technical disciplines, including but not necessarily limited to chemistry and chemical engineering, materials science, physics, geology, mechanical engineering, biology, environmental science and engineering, mathematics, electrical engineering, and computer science. The Contractor shall possess the breadth, capability, and flexibility to access resources across these varied areas when required.

NETL ORD research projects are reviewed annually. The results of this review form the basis for the following year’s research and infrastructure priorities. As part of this process, specific projects are identified for initiation, continuation, adjustment, or termination. Areas requiring Contractor support are also defined. Research project activities and associated project-specific infrastructure needs are developed with Contractor support and form the basis of the NETL ORD annual work plan.

Fact sheets describing current NETL ORD project activities can be found on the NETL web site at: http://www.netl.doe.gov/publications/factsheets/rd_toc.html.

2. Work Elements of Research Services. Contractor activities anticipated to accomplish the contract scope include but are not limited to:

- a) Planning of projects, including the conduct of literature searches and other background investigations

- b) Preparation of implementation plans, and cost and schedule estimates in response to DOE requirements.
- c) preparation and handling of experimental samples
- d) Collection of data
- e) Analysis and interpretation of data
- f) Maintenance and archiving of research records and notebooks
- g) Drafting of papers, presentations, and reports
- h) Reporting of results at technical conferences and other meetings, including merit reviews
- i) Preparation and review of Safety Analysis and Review System (SARS) packages
- j) Adherence to all NETL Environmental Health and Safety (ES&H) and SARS requirements, including participation in required training
- k) Adherence to DOE Office of Scientific and Technical Information (OSTI) reporting requirements, and ORD publication tracking requirements
- l) Adherence to NETL Rights-in-Data requirements, as described in Section I, Rights in Data – Facilities clause.
- m) Adherence to other applicable DOE policies and NETL directives
- n) Conceptual design and development of NETL ORD research infrastructure additions and modifications, from conception through “hand off” of responsibility to a specific project for detailed design and implementation
- o) Fostering and maintenance of state-of-the-art technical knowledge in areas of importance to NETL
- p) Formulating research-based options to advance DOE program goals
- q) Assessing the state of technologies developed both within and outside the DOE Fossil Energy Program for applications and/or use in solving problems which impede, limit or restrict the use of fossil energy resources and fuels
- r) Analysis and review of research data and reports
- s) Performing engineering analyses, cost estimates, economic evaluations, project technical risk analyses, and cost risk analyses on potential or existing projects

B. Research Infrastructure Support. CLIN 2 shall include those elements of Research Infrastructure Support, as enumerated in Section IV. B., that are attributable to specific research efforts being carried out within the CLIN.

C. Environment, Safety, and Health (ES&H) and Quality Control (QC) Support. CLIN 2 shall include those elements of Environment, Safety, and Health (ES&H) and Quality Control Support, as enumerated in Section IV. C., that are attributable to specific research efforts being carried out within the CLIN.

D. Logistical and Technical Coordination Support. CLIN 2 shall include those elements of Logistical and Technical Coordination Support, as enumerated in Section IV. D., that are attributable to specific research efforts being carried out within the CLIN.

VI. CLIN 3: Energy System Dynamics. This CLIN supports research and project-specific infrastructure within the Energy System Dynamics Focus Area. Work in this area is intended to conceive, analyze, and develop pre-commercial energy technology that minimizes the environmental impact of fossil fuel use and that maximizes reliable use of domestic energy sources and infrastructure. The focus area primarily addresses devices that would be found “in plant,” such as turbines and fuel cell hybrids, fuel cells, fuel processors for fuel cells, gasification, carbon dioxide capture for pulverized coal and for integrated gasification combined cycle (IGCC) systems, reciprocating engines, and sensor/control methods for all these energy systems. This focus area is a recognized source of expertise and research leading to commercially viable technology that improves fossil-fuel-based energy systems. The focus area supports research and development in coal power systems, and supports DOE global climate change initiatives. Research is centered around investigation and testing of new energy system concept and technologies.

CLIN 3 comprises the following functional areas:

A. Research Services. CLIN 3 shall include those elements of Research Services, as enumerated in Section V. A., that are attributable to specific research efforts being carried out within the CLIN.

B. Research Infrastructure Support. CLIN 3 shall include those elements of Research Infrastructure Support, as enumerated in Section IV. B., that are attributable to specific research efforts being carried out within the CLIN.

C. Environment, Safety, and Health (ES&H) and Quality Control (QC) Support. CLIN 3 shall include those elements of Environment, Safety, and Health (ES&H) and Quality Control Support, as enumerated in Section IV. C., that are attributable to specific research efforts being carried out within the CLIN.

D. Logistical and Technical Coordination Support. CLIN 3 shall include those elements of Logistical and Technical Coordination Support, as enumerated in Section IV. D., that are attributable to specific research efforts being carried out within the CLIN.

VII. CLIN 4: Geological and Environmental Systems. This CLIN supports research and project-specific infrastructure within the Geological and Environmental Systems Focus Area. Work in this area is intended to assess the capacity, suitability, and permanence of potential carbon sequestration reservoirs, to assess the ability of unconventional reservoirs to produce gas and oil and assist in that production, to improve environmental performance of existing power plants, and to be recognized for performing sound science, achieving excellence, and meeting goals. The scope of the focus area includes geological sequestration; resources assessment; production modeling; development of unconventional gas and oil resources; fate of air toxics such as mercury; and water issues related to existing coal-fueled electric power plants. Sequestration simulation and field work expertise provides a valuable internal capability for NETL in assessing external activities. The Focus Area is intimately involved with current sequestration field-testing activities in collaboration with the regional sequestration partnerships developed by DOE. The focus area directly supports DOE global climate change initiatives, carbon sequestration technologies, natural gas and oil technologies, and clean power generation. The long-range objective of the focus area is to conduct research in carbon sequestration, natural gas and oil, and environmental research.

CLIN 4 comprises the following functional areas:

A. Research Services. CLIN 4 shall include those elements of Research Services, as enumerated in Section V. A., that are attributable to specific research efforts being carried out within the CLIN.

B. Research Infrastructure Support. CLIN 4 shall include those elements of Research Infrastructure Support, as enumerated in Section IV. B., that are attributable to specific research efforts being carried out within the CLIN.

C. Environment, Safety, and Health (ES&H) and Quality Control (QC) Support. CLIN 4 shall include those elements of Environment, Safety, and Health (ES&H) and Quality Control Support, as enumerated in Section IV. C., that are attributable to specific research efforts being carried out within the CLIN.

D. Logistical and Technical Coordination Support. CLIN 4 shall include those elements of Logistical and Technical Coordination Support, as enumerated in Section IV. D., that are attributable to specific research efforts being carried out within the CLIN.

VIII. CLIN 5: Materials Science. This CLIN supports research and project-specific infrastructure within the Materials Science Focus Area. Work in this area encompasses all aspects of the 'materials life cycle' starting with the formulation, processing, characterization, performance evaluation, prototyping, modeling, service life predictions and recycling of materials. Advanced materials and processes are vital to higher performance and more economic fossil energy systems such as state-of-the-art power plants, and other 21st century power and fuels production facilities. The Focus Area addresses the need for cost effective functional and structural materials to enable advanced power generation technologies, such as coal gasifiers, turbines, combustors, and fuel cells. Types of work in this focus area include: fundamental research on the understanding the basic mechanisms of materials performance in complex environments; fundamental research on alloy and materials design and formulation; alloy and materials development and selection for high-temperature and aggressive environments; microstructural characterization; materials performance evaluation; service lifetime predictions; development of processes to

efficiently produce prototype parts, including casting and wrought processing; and research to improve efficiencies of melting, smelting and/or other materials processing systems..

CLIN 5 comprises the following functional areas:

- A. Research Services.** CLIN 5 shall include those elements of Research Services, as enumerated in Section V. A., that are attributable to specific research efforts being carried out within the CLIN.
- B. Research Infrastructure Support.** CLIN 5 shall include those elements of Research Infrastructure Support, as enumerated in Section IV. B., that are attributable to specific research efforts being carried out within the CLIN.
- C. Environment, Safety, and Health (ES&H) and Quality Control (QC) Support.** CLIN 5 shall include those elements of Environment, Safety, and Health (ES&H) and Quality Control Support, as enumerated in Section IV. C., that are attributable to specific research efforts being carried out within the CLIN.
- D. Logistical and Technical Coordination Support.** CLIN 5 shall include those elements of Logistical and Technical Coordination Support, as enumerated in Section IV. D., that are attributable to specific research efforts being carried out within the CLIN.

IX. CLIN 6: New and Other Business. This CLIN supports the management and execution of research activities not included in existing Focus Areas, such as new FE initiatives, Work for Others, and reimbursable work assigned to NETL. It includes, but is not limited to Cooperative Research and Development Agreements (CRADA's), International Agreements, Memoranda of Understanding (MOU's), and Interagency Agreements. It also includes work done in collaboration with or support of other (non-FE) DOE organizational and program elements (including other DOE National Labs), work related to other (non-DOE) Federal agencies, state agencies, and local government agencies, and/or other work assigned to NETL as deemed to be in the National interest. In contrast to the Focus Area based work in CLIN's 2 through 5, which is nearly always based on-site, the nature of CLIN 6 work may require a strong off site component and/or unique staffing needs. The Contractor shall provide the necessary support and assistance to NETL at locations approved by the NETL COR and authorized by the NETL Contracting Officer in the performance of such work.

CLIN 6 comprises the following functional areas:

- A. Research Services.** CLIN 6 shall include those elements of Research Services, as enumerated in Section V. A., that are attributable to specific research efforts being carried out within the CLIN.
- B. Research Infrastructure Support.** CLIN 6 shall include those elements of Research Infrastructure Support, as enumerated in Section IV. B., that are attributable to specific research efforts being carried out within the CLIN.
- C. Environment, Safety, and Health (ES&H) and Quality Control (QC) Support.** CLIN 6 shall include those elements of Environment, Safety, and Health (ES&H) and Quality Control Support, as enumerated in Section IV. C., that are attributable to specific research efforts being carried out within the CLIN.
- D. Logistical and Technical Coordination Support.** CLIN 6 shall include those elements of Logistical and Technical Coordination Support, as enumerated in Section IV. D., that are attributable to specific research efforts being carried out within the CLIN.

REPORTING REQUIREMENTS CHECKLIST

1. AWARDEE: *URS Washington Division* **2. IDENTIFICATION NUMBER:** *DE-FE0004000*

REPORT SUBMISSION:

Reports shall be submitted to the electronic addresses and mailing address indicated in the NETL-identified Distribution List provided in the post award debriefing. One hard copy of each report must be submitted to the Contract Specialist (CS) and one to the appointed Contracting Officer's Representative (COR).

4. PLANNING AND REPORTING REQUIREMENTS

	FORM NO.	FREQ.	NO. OF COPIES		FORM NO.	FREQ.	NO. OF COPIES
A. GENERAL MANAGEMENT				E. TECHNICAL (One paper copy and One pdf electronic file copy)			
* <input checked="" type="checkbox"/> Management Plan	None	O, PY ***	**	<input type="checkbox"/> Technical Progress Report	None		
<input checked="" type="checkbox"/> Status Report	None	M	**	Final Report			
<input checked="" type="checkbox"/> Summary Report	1332.2	M	**	<input type="checkbox"/> Draft for Review	None		
<input type="checkbox"/> PEP Documentation Report	None			<input type="checkbox"/> Final for Approval	None		
<input checked="" type="checkbox"/> Quality Assurance Mgmt Plan	None	O ***	**	<input type="checkbox"/> Topical Report	None		
B. SCHEDULE/LABOR/COST				F. PROPERTY			
* <input type="checkbox"/> Milestone Schedule/Plan	1332.3			<input checked="" type="checkbox"/> Report of Contractor's Property Management System	None	P	**
<input checked="" type="checkbox"/> Subcontract Status Report	See Text	Y	**	<input checked="" type="checkbox"/> Annual Report of Property in The Custody of Contractor	F580.1-8	YP	**
<input checked="" type="checkbox"/> Annual Work Operating Plan	See G.6	PY	**	<input checked="" type="checkbox"/> High Risk Property Report	F580.1-25	YP	**
<input checked="" type="checkbox"/> Cost Management Report	See Text	MI	**	<input checked="" type="checkbox"/> Report of Physical Inventory of Capital Equipment	None	I	**
<input checked="" type="checkbox"/> Invoice Detail Report	See Text	MI	**	<input checked="" type="checkbox"/> Report of Physical Inventory of Sensitive Items	None	YP	**
<input checked="" type="checkbox"/> Staffing Report Summary	See Text	MI	**	<input checked="" type="checkbox"/> Report of Termination or or Completion Inventory	SF-1428; SF-120; F580.1-7	FC	**
<input checked="" type="checkbox"/> Organization Chart	See Text	S	**	G. OTHER			
C. EXCEPTION				<input type="checkbox"/> Key Personnel Staffing Report	None		
<input type="checkbox"/> Conference Record	None			<input checked="" type="checkbox"/> Subcontracting Report	SF-294	SS	
<input checked="" type="checkbox"/> Hot Line Report	None	A	**	<input checked="" type="checkbox"/> Summary Subcontracting Report	SF-295	YS	
<input type="checkbox"/> Journal Articles/Conference Papers and Proceedings	None			<input type="checkbox"/> Software	None		
D. ENVIRONMENTAL ES&H				<input checked="" type="checkbox"/> EEO Compliance Report	None	Y	**
<input checked="" type="checkbox"/> Hazardous Substance Plan	None	O	**				
<input checked="" type="checkbox"/> Hazardous Waste Report	None	FC	**				
<input checked="" type="checkbox"/> ES&H Hot Line Report	None	A	**				
<input checked="" type="checkbox"/> DOE NETL ES&H Reports (DOE O 231.1, M 231.1-1, O 232.1)	See Orders & Manuals	A	**				
<input checked="" type="checkbox"/> Integrated Safety Management Plan (DOE 450.4)	See DOE Order	O***	**				

5. Frequency Codes and Due Dates:

Definition	Calendar days due after event	Definition	Calendar days due after event
A – As Required (See attached text for applicability)	0	O – Once After Award	30
C – Contract Change	15	Q – Quarterly (End of Calendar Quarter)	30
FC – Final End of Effort	0	S – Semi-Annual (End of project year and project year half)	20
FD – Final Technical – Draft Version	-60	Y – Yearly (End of project year, see narrative for details)	30
M – Monthly	15	PY – Yearly Plan for following Federal Fiscal Year	-15
MI – Monthly prepared and submitted at same time as invoice	15	E – End of Evaluation Period	5

<p>Property Reports</p> <p>P – Property Management System – Within 6 months of award date YP – Yearly Property – due 10/15 for period ending 9/30 I – Physical Inventory of Capital Equipment – Biennial from award start date</p>	<p>Other Web-based reports http://www.esrs.gov</p> <p>SS – Subcontracting Report - Semi-annual due 4/30 and 10/30 for period ending 3/31 and 9/30 respectively, submit on-line at http://www.esrs.gov YS – Summary Subcontracting Report - Annually, due 10/30 for period ending 9/30, submit on-line at http://www.esrs.gov</p>
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* The yearly plans, identified as required in Sections 4A and 4B, are due by September 15 for the following Federal Fiscal Year.
 ** Reports are to be distributed electronically, along with two (2) hard copies, to the NETL-identified distribution list. Report templates are examples, the Contractor may submit the requested information using their own templates provided the same information is provided. If the submission involves a DOE Standard Form, the Contractor may submit the requested information in a format of its own choosing, as long, as the same information is provided. The reports in this checklist apply to the contract in general. The Statement of Work Assignments may require other specific reports and/or deliverables.
 *** Plan is to be updated annually or as significant changes are identified.

6. SPECIAL INSTRUCTIONS:

The forms identified, with a forms number, in the checklist are available at <http://www.netl.doe.gov/business/forms.html>.

GENERAL INSTRUCTIONS FOR THE PREPARATION AND SUBMISSION OF REPORTS (MAR 1999)

The Contractor shall prepare and submit the plans and reports indicated on the "Reporting Requirements Checklist" to the electronic addresses and mailing addresses provided in the NETL-identified Distribution List. The Distribution List will be provided at the post award debriefing with the Contractor. The level of detail the Contractor provides in the plans and reports shall be commensurate with the scope and complexity of the effort and shall be as delineated in the guidelines and instructions contained herein. The prime Contractor shall be responsible for acquiring data from any subcontractors to ensure that data submitted are compatible with the data elements which prime Contractors are required to submit to DOE.

MANAGEMENT PLAN

The Management Plan describes the contractor's approach to performing the effort and producing the products identified in the contractual agreement, and the technical, schedule, cost, and financial management control systems to be used to manage performance.

The outline for the Management Plan and a description of the contents follows:

Executive Summary

The executive summary gives DOE/NETL's management a brief, comprehensive overview of the most important aspects of the management plan.

Background

This is a discussion of the background of the project, including the scientific, sociological, legislative, and historical factors, that demonstrates the contractor's understanding of the problems, both technical and management, associated with the project.

Scope of the Project

This section gives a brief overview of the project. It should include:

- general description of project objectives;
- work element titles and short descriptions;
- participants.

Work Breakdown Structure (WBS)

The scope and complexity of the contractual agreement influence the number of levels required. Each descending level represents an increasingly detailed definition of the work elements. Level 1 is the goal or objective of the contractual agreement in its entirety. Level 2 consists of the major work products necessary for achieving the goals of the contractual agreement. Level 3 outlines the major element segments (subsystems) necessary for completing Level 2 elements. Work breakdown structure elements are identified by name and number from a progressive, alphanumeric system. For example:

Example:

WBS Level 1: Contract Level Reporting

WBS Level 2: CLIN Level Reporting

WBS Level 3: Work Assignment Level Reporting

WBS Level 4: Activity Level Reporting

WBS ELEMENT X.X: _____ (TITLE)

OBJECTIVE: State the objective of the work element in a concise manner.

BACKGROUND: State the background in a concise manner. Include descriptions of any outstanding issues which must be resolved in order to make progress.

TECHNICAL APPROACH: Describe in detail the manner in which the various issues will be resolved. The following are aspects of the work which should be considered and addressed (along with others you feel appropriate):

What experiments will be performed and why?

What materials will be used?

What are the experimental conditions?

What analytical techniques will be employed?

What will be the approach to modeling?

In answering these questions, you should consider how the various work elements relate to one another and to other relevant ongoing work. Work outputs which feed into other work elements (and vice-versa) should be clearly delineated.

DELIVERABLES: Describe specifically the results of the effort. These should include:

raw and reduced data and method of presentation;

brief description of models to be developed;

other key results as appropriate.

Support Systems and Controls

In this section, the management, technical, and administrative system that will be used to control and execute the project will be described. Examples of the systems include: systems and engineering analysis, quality assurance, environmental, safety and health, legal support, ADP support, and accounting support.

STATUS REPORT

The Status Report presents the Contractor's narrative technical assessment of the work actually performed and the overall status of the various CLINs. Open items requiring action by either the Contractor or DOE are noted in this report. The report also provides a summary assessment of the current situation, including forecast for the near future and the expected impact on CLIN accomplishment. The report is to include a listing of the major products for each CLIN in bullet form and, if applicable, a list of pertinent presentations and publications.

SUMMARY REPORT DOE F 1332.2

The Summary Report provides a concise, top-level synopsis of schedule, labor, and cost performance. Most data are presented graphically. The format permits rapid visual comparison of schedule, labor, and cost data. Three components are presented: a cost status graph, a labor status graph, and a milestone chart. The cost and labor graphs are presented on a cumulative basis. Planned and actual numerical data are presented for the specified period. Labor and cost variances are shown on a monthly and cumulative.

QUALITY ASSURANCE MANAGEMENT PLAN

A Quality Assurance Management Implementation Plan shall be developed and submitted by the Contractor. The plan shall describe how the offeror will implement, using a graded approach, QA philosophy, as outlined in DOE O 414.1C, Quality Assurance, and DOE G414.1-2A, Quality Assurance Management System Guide for Use with 10 CFR Part 830, Subpart A, Quality Assurance Requirements, and DOE O 414.1C, Quality Assurance. The plan shall provide (1) a process and graded approach to the integration of the DOE QA ten part criteria (i.e. program, personnel training and qualifications, quality improvement, documents and records, design, procurement, inspection and acceptance testing, independent assessment) into its everyday work activities; and (2) a discussion on how the execution of the offeror's plan will successfully and cost-effectively integrate with NETL's own QA program for on-site work to be conducted. This plan shall be reviewed annually and revised as needed. The DOE quality assurance directives and guidelines can be found at <http://www.directives.doe.gov/>

SUBCONTRACT STATUS REPORT INSTRUCTIONS (December 2008)

PURPOSE

The Subcontract Status Report is to provide NETL management with information relative to the status of all subcontractors charged to each site support contract. This report will be used by Federal personnel as an information source and as a project management tool. In addition, NETL will use this information for budgeting and planning purposes. This report will also provide a detailed breakdown of each subcontractor and the specific CLIN/Task/Subtask being supported.

FORM

An Excel file (Subcontract Status Report.xls) has been included as a recommended template.

COST MANAGEMENT REPORT INSTRUCTIONS (December 2008)

PURPOSE

The Cost Management Report provides a monthly status of actual and estimated costs, funding, and plan values, as well as a projection of funds expiration, for each reportable element within a designated contract. This report serves as an accounting, budgeting, and project management tool. Federal personnel will use this report to monitor the funding and cost status of the contract, verify the reasonableness of the contractor's invoices, formulate budgets and calculate award fee pools.

FORM

An Excel file (CMR-Staffing-Invoice Detail.xls) has been included as a sample template. The following is the suggested format for submission of this report.

INSTRUCTIONS

Item	Description
1	Enter the official contract title.
2	Enter the inclusive start and completion dates for the reporting period.
3	Enter the official contract number and, if a modification(s) has occurred, append the latest modification number.
4	Enter the name of the contractor.
5	Enter the date of the contract's current cost plan, which serves as a baseline for this report.
6	Enter the official start date of the original contract.
7	Enter the official completion date as of the latest modification to the contract.
8	Enter the Title, Contract Line Item Number (CLIN), Sub-CLIN, Task, Sub-task, or Activity Numbers, in numerical order, consistent with the contract's Work Breakdown Structure as per the current Management Plan.

- 9 Enter the current approved plan revision for each Element as applicable. Revisions will be tracked by an alpha character added to the end of the Element with "A" designating the first revision.
- 10 Enter the Appropriation Year from which the funding is provided.
- 11 Enter the Reporting Entity number.
- 12 Enter the Program numbers that are to fund the Element. If more than one Program number is being used, place the pertinent funding information on separate lines.
- 13 Enter the Work for Others number or Project number that designates NETL customer work. If more than one number is being used, place the applicable funding information on separate lines. This column may be hidden to conserve space.
- 14 Enter the seven-digit code provided on the funding source document. If more than one number is being used, place the pertinent information on separate lines. If not used, this column may be hidden to conserve space.
- 15 Enter the amount of funding that has been obligated against the Element in prior fiscal years.
- 16 Enter the amount of funds that have been obligated against the Element in the current fiscal year.
- 17 Enter the total obligations awarded to the contract as of the close of the reporting period.
- 18 Enter the Approved FY Cost Plans, and estimate of the cost of work planned in the current fiscal year distributed by funding source. Only plan values authorized by the CO shall be recorded in this column.
- 19 Enter the total authorized plan value for the entire performance period of the Element, which may span multiple fiscal years.
- 20 Enter the total actual cost invoiced for the reporting period.
- 21 Enter the total planned cost for the reporting period as shown in the most recent authorized cost plan.
- 22 Enter the total actual cost invoiced as of the close of the reporting period for the current fiscal year.
- 23 Enter the balance remaining of the planned cost for the current fiscal year as shown in the latest approved fiscal year cost plan (Item 18).
- 24 Enter the total actual cost invoiced for the Element from the inception of the contract to the end of the reporting period.
- 25 Enter the total authorized planned costs for the Element from the inception of the contract to the date of the report.
- 26 Enter the "Open Commitments," defined as any costs *incurred* by the end of the current reporting period but not yet invoiced to NETL.
This would include subcontractor costs incurred but not yet billed to NETL and any award fee earned but not yet invoiced to NETL. Upon completion of the first award fee period estimates for fee shall be based on the average of historic fee earned, not 100% of available award fee. Special consideration should be made to accurately estimate subcontract costs when the prime has not received invoices but is aware that the work has occurred.
- 27 Enter the total planned costs for the next reporting period as shown in the most recent authorized cost plan.
- 28 Enter the "FY Total Cost" which is defined as the costs that the contractor expects to incur during the current fiscal year.
A contract project manager's estimate should be used to project the balance of the year and should include those costs that have been incurred but not invoiced to NETL (open commitments as defined in Item 26). This will equate to the FYTD Actuals plus the balance of the year.
- 29 Enter the date on which the funds available to the contractor for a specific Element are projected to be fully costed.
- 30 Enter the subtotal of all Elements identified as Fossil Energy (FE) work.
- 31 Enter the subtotal of all Elements identified as Non-FE work.
- 32 Enter the total of all costs for each column that can be summed. If multiple pages are used, enter the total only on the final page.
- 33 Enter the unit measure for dollar amounts shown (e.g., exact dollars and cents). NETL cost entries are done to the penny. Carry the unit of measure out to decimals (e.g., cents), rounding to two decimal places. Format the cell to round to the dollar so space will be saved. NETL Finance will reformat the appropriate column to two decimals for making cost entries.
- 34 Enter the signature of the responsible contractor Project Manager and the date signed, verifying the validity of the furnished information based upon the Project Manager's knowledge of the contract's current progress and status.
- 35 Enter the signature of the contractor's financial representative and the date signed, verifying the validity of the furnished information based upon the financial representative's knowledge of the contract's current progress and status.

- 36 Enter notes that relate to a reporting elements' financial status. Include modifications received after the closing date of the reporting period but before the actual due date of the CMR.

Special Instructions:

Any reference to a fiscal year refers to the Federal Government fiscal year, October 1 through September 30 of the following year.

For the purpose of this report, the term "Element" refers to any reportable CLIN, Sub-CLIN, Task, Sub-task, or activity.

A new line entry must be inserted anytime one of the following components change:

1. CLIN/Task Number/Title
2. Appropriation Year
3. Reporting Entity
4. Program Number
5. WFO or Project Number
6. Local Use Number

Each Element will be subtotaled. If a Sub-element is associated with an Element, the Sub-element will be totaled and reported at both the Sub- and Element level. For example, an Element with two or more subs would show all of the above information for each sub-Element and rolled up to the Element level.

Any and all breakouts of Sub-CLINs/activities must be received as technical direction, in writing, from the Contracting Officers Representative (COR) / Contracting Officers Technical Representative (COTR) / or a Delegated Element Monitor (DEM).

INVOICE DETAIL REPORT INSTRUCTIONS (December 2008)

PURPOSE

The Invoice Detail Report provides a monthly status of actual and planned FTE hours worked for each task and a headcount within a designated contract. This report will be used by Federal personnel as an information source and as a project management tool. This report will also serve as the base for the staffing report and will also serve as supporting documentation for the "Public Voucher for Purchases and Services Other Than Personal" (SF 1034). CLIN/Task managers will review the data as part of the invoice approval process.

INSTRUCTIONS

<u>Item</u>	<u>Description</u>
1	Enter Contractor's name and address.
2	Enter the contract number.
3	Enter the name and address of the organization for which the services have been provided and is responsible for the payment of the invoice.
4	Enter a sequential invoice number as designated by the Contractor.
5	Enter the date the invoice was issued.
6	Enter the inclusive start and completion dates for the invoice period.
7	Enter the employee's name.
8	Enter the labor category title and Exempt (E) or Nonexempt (NE).
9	Enter the employee status [full time (FT), part time (PT)].
10	Enter the employer name (prime Contractor, subcontractor).
11	Enter the employee's current labor rate.
12	Enter the actual hours worked in the reporting period by the employee. The available hours may vary by month depending on weekends, holidays, number of days in month, etc.
13	Enter the total labor cost per employee for the period.

- 14 Enter full time equivalent (FTE) actual time worked.
- 15 Enter the FTE labor by site.
Off-site – any location not on one of NETL’s sites as defined in “on-site” below.
On-site – Federally-owned or leased property within the defined boundaries of the sites including Pittsburgh, PA; Morgantown, WV (including, in the case of Morgantown, NETL-leased space in the Research Ridge complex immediately adjacent to the boundary); Tulsa, OK; Fairbanks, AK; Albany, OR; and any future sites.
- 16 Enter the cumulative hours worked to date per employee.
- 17 Enter the previous months costs (can be done by copying the values from “Cumulative Current Cost,” column N on the spreadsheet). This column will be used to calculate the cumulative current cost column and can be hidden in subsequent invoices.
- 18 The cumulative current cost is the total cost from previous periods plus the cost for the current period.
- 19 Enter the CLIN/Task number and title.
- 20 Enter the total items of 12 through 18 described above.
- 21 Enter the planned/actual labor hours for the current period.
- 22 Enter the planned/actual labor hours for the cumulative period.
- 23 Other direct costs (ODCs) include those cost other than labor which are directly related and charged to the task.
- 24 Enter a very brief description of the other direct costs.
- 25 Enter material costs for the period and cumulative to date.
- 26 Enter the travel costs for the period and cumulative to date.
- 27 Enter the training cost for the period and cumulative to date.
- 28 Enter fee awarded to the task.
- 29 Enter total of all costs and fee.
- 30 Enter the total cost and fee for labor and ODCs.
- 31 Enter the labors costs that were charged to each Program Number funding the CLIN/Task. Enter the total FTEs by Program Number at each site. This information is derived in combination with the Cost Management Report (CMR) by using the “total actual cost incurred for the reporting period” – Item 20 on the CMR - and prorating the costs according to the Program Numbers and Reporting Entity elements within each task and applying to the corresponding task, by site location, on the Staffing Report. Example: CLIN 0005432.01 on the CMR is funded with 1610328, 1610232, and 1610247 Program Numbers from 220201 Reporting Entity. When prorated, the task consists of 82% 1610328, 9% 1610323, and 9% 1610247 costs. The percentages would then be applied to CLIN 0005432.01 FTEs on the Staffing Report.

STAFFING REPORT SUMMARY INSTRUCTIONS (December 2008)

PURPOSE

The Staffing Report Summary is to provide NETL management with data relative to the number of Contractor FTEs (full time equivalents) charged to each funding source within a contract. NETL uses this information in budgeting and planning exercises. In addition, many information requests are received from Headquarters dealing with the location of Contractor employees. This report may be set up so that the detail from the Invoice/Staffing Report will be automatically entered requiring little manual input.

INSTRUCTIONS

<u>Item</u>	<u>Description</u>
1	Enter contractor name and address.
2	Enter contract number.
3	Enter DOE address.
4	Enter inclusive dates of current reporting period.
5	Enter contract title.
6	FTEs charged to Program Numbers key to NETL’s Intuitional Budget will be tracked separately. These Program Numbers will be predetermined on the format given to the Contractor. If changes occur, the Contractor will be notified by E-mail with a new format. Enter the number of FTEs charged against the designated Program Numbers.

- 7 Enter FTEs charged to other institutional Program Numbers that are not key to the budget.
- 8 Enter the collective total of all FTEs charged to the remaining Program Numbers that are not reported in the Institutional Budget.
- 9 Enter the total number of FTEs for each row.
- 10 Enter the FTE labor by site.
Off-site – any location not on one of NETL’s sites as defined in “on-site” below.
On-site – Federally-owned or leased property within the defined boundaries of the sites at Pittsburgh, PA (PGH); Morgantown, WV (MGN); Tulsa, OK (TUL); Albany, OR (ALB); and Fairbanks, AK (AK); including, in the case of Morgantown, NETL-leased space in the Research Ridge complex immediately adjacent to the boundary.
- 11 Enter the total number of FTEs for each column.
- 12 Enter the headcount of employees working at on and off-site locations as defined in item 10 above.

CONTRACT ORGANIZATION CHART INSTRUCTIONS (December 2008)

BACKGROUND

The staffing report summary is to provide NETL management with data relative to the number of Contractor FTE’s charged to each funding source within a contract. NETL uses this information in budgeting and planning exercises.

The contract organization chart provides a detailed breakdown of the contractor FTE’s for the NETL functional areas they are supporting. This report will be used by Federal personnel as an information source and as a project management tool.

INSTRUCTIONS

Item Description

- 1 Enter the submission date of the report.
- 2 Enter source document used for obtaining the data (i.e. April 2008 Invoice/Staffing Data).
- 3 Enter the name of the individual authorized to submit the report.
- 4 Enter the contract number (i.e. DE-NT0005432).
- 5 Enter the current NETL organizational code. SSC organization data must match the current NETL Organizational Chart (by division, etc.). Use current NETL codes 120, 300, 311, etc. assigned to each NETL unit. A NETL codes tab with current information is included with the Excel template.
- 6 Enter the current NETL organization title. A worksheet tab with current information has been included in the template. Copy the formula down the column and the title should automatically be entered.
- 7 Enter Labor category examples: Scientist 4, Secretary 1, etc.
- 8 Enter the employee’s name – use full last name.
- 9 Enter the first initial of the employee. For employees with identical last names and first initial, use the second letter of the first name. If an employee has multiple contractor roles, use the first two initials for the first name. Do NOT use all capitals.
Examples: Doe, J.
Doe, Ja.
- 10 Enter the major contract (i.e. RES, ITES, etc).
- 11 Enter the assigned company code. Select the company key tab on the template. This list should be updated as required using the following format.
The company numbering code will consist of three (3) alpha characters and up to two (2) numerals.
- 12 Enter the FTE allocation. FTE percentage charged to the specific NETL division. Use two (2) decimal places. Employee should only be listed once for each NETL division.
- 13 Enter the FYXX Fully Loaded Labor rate estimated cost projected on the FYXX work (cost) plans. This is to be prorate according to data in FTE Allocation column.
NOTE: fully loaded labor rate cost is defined as the base hourly rate plus fringe benefits.

- 14 Enter the work location using the following alpha codes:
 A = Albany, OR
 AK = Alaska
 M = Morgantown, WV
 P = Pittsburgh, PA
 R = Research Ridge
 T = Tulsa, OK
 O = Offsite (Example: Denver, CO, Oak Ridge, TN, Washington, DC, etc.)
- 15 No input by the contractor is required for these columns. A formula has been provided to populate the columns based on the location code entered in the "Location" column. The only action required is to copy the formula provided down the columns for each additional row of information.
- 16 Enter additional comments as needed.
- 17 No input required. A formula has been entered to total the FTE's for each individual location column (i.e., Albany, Alaska, Pittsburgh, etc.). In addition, a grand total of locations

SUPPLEMENTAL INSTRUCTIONS

- Verify data:
 - Is information valid?
 - Eliminate positions that are duplicates.
 - Employee has not been separated or on extended leave.
 - Check spelling.
- Check that the formula is valid especially if it was necessary to insert addition rows.
- List all direct labor FTE's. Enter number of FTE's charged against a specific NETL number. If the FTE is split between NETL divisions, a separately entry will be made for each division. Be sure the employee's time totals to the correct FTE allocation.
- DO list vacancies.
- DO submit data for an employee on extended leave.

AVOID

- Avoid duplicates
- An employee should only be listed once per NETL Code #.
- An employee can not be more than 1 FTE

HOT LINE REPORT (MAR 2002)

The "Hot Line" Report may be used to report a major breakthrough in research, development, or design; an event causing a significant schedule slippage or cost overrun; an environmental, safety and health violation; achievement of or failure to achieve an important technical objective; or any requirement for quickly documented direction or redirection. The report shall be submitted by the most rapid means available, usually electronic, and should confirm telephone conversations with DOE representatives. Identification as a "Hot Line Report" serves notice at each link in the delivery chain that expedition in handling is required. Unless otherwise agreed by the parties involved, DOE is expected to take action and respond in a similarly timely manner. The report should include:

1. Contractor's name and address;
2. Contract title and number;
3. Date;
4. Brief statement of problem or event;
5. Anticipated impacts; and
6. Corrective action taken or recommended.

Hot line reports shall document the incidents listed below:

1. Any single fatality or injuries requiring hospitalization of five or more individuals is to be immediately reported.

2. Any significant environmental permit violation is to be reported as soon as possible, but within 24 hours of the discovery of the incident.
3. Other incidents that have the potential for high visibility in the media are to be reported as quickly as possible, but within 24 hours following discovery.
4. Any failure resulting in damage to Government-owned equipment in excess of \$50,000 is to be reported as quickly as possible, but within 24 hours of the discovery of the failure.
5. Any unplanned event which is anticipated to cause a schedule slippage or cost increase significant to the project is to be reported within 24 hours.
6. Any verbal or written Notice of Violation of any Environmental, Safety, and Health statutes arising from the performance of this contract is to be immediately reported.
7. Any accidental spill or release which is in violation of any Environmental, Safety, and Health statutes arising from the performance of this contract is to be immediately reported, but within 24 hours of the discovery of the accident.
8. Any incident which causes a significant process or hazard control system failure, or is indicative of one which may lead to any of the above defined incidents, is to be reported as soon as possible, but within 5 days of discovery.

The requirement to submit Hot Line Reports for the incidents identified in 1, 2, 3, 6, or 7 is for the sole purpose of enabling DOE officials to respond to questions relating to such events from the media and other public.

When an incident is reported in accordance with 4, 5, 6, 7, or 8, the Contractor shall conduct an investigation of its cause and make an assessment of the adequacy of resultant action. A written report is required no later than ten (10) calendar days following the incident and shall include an analysis of the pertinent facts regarding the cause, and a schedule of the remedial events and time periods necessary to correct the action.

When an event results in the need to issue a written or verbal statement to the local media, the statement is to be cleared first; if possible, and coordinated with NETL's Office of Public Affairs, the Contracting Officer Representative (COR) and the Contracting Officer.

HAZARDOUS SUBSTANCE PLAN

The Contractor shall submit a Hazardous Substance Plan not later than thirty (30) calendar days after initial contract award. The Plan shall specifically identify each Hazardous Substance (as defined under 40 CFR 261, Subpart D, entitled "Lists of Hazardous Wastes") anticipated to be purchased, utilized or generated in the performance of this contract. For each such Hazardous Substance identified, the Plan shall specifically provide the following information:

- Description of Substance/Chemical
- EPA Hazardous Waste Number
- EPA Hazard Code
- Anticipated Quantity to be purchased, utilized or generated
- Anticipated Hazardous Waste Transporter
- Anticipated Hazardous Waste Disposal Facility Contractor and Location (City/Municipality, State)
- Anticipated Treatment Method

HAZARDOUS WASTE REPORT

The Contractor shall submit a Hazardous Waste Report at the completion of contract performance. The Report shall specifically identify each Hazardous Waste (as defined under 40 CFR 261, Subpart D, entitled "Lists of Hazardous

Wastes”) actually utilized, or generated in the performance of this contract. For each such Hazardous Waste identified, the Report shall specifically provide the following information:

Description of Substance/Chemical
EPA Hazardous Waste Number
EPA Hazard Code
Actual Quantity Disposed
Actual Hazardous Waste Transporter
Actual Hazardous Waste Disposal Facility Contractor and Location (City/Municipality, State)
Actual Disposal Date
Actual Treatment Method

The Hazardous Waste Report is intended as a final reconciliation of anticipated versus actual Hazardous Substances purchased, utilized, or generated in the performance of this contract.

ES&H HOT LINE REPORT

A. The “ES&H Hot Line Report” is to be used to report an ES&H violation. The report must be submitted by the most rapid means available, usually electronic, and is to confirm telephone conversations with the DOE Representatives. Identification as an “ES&H Hot Line Report” serves notice at each link in the delivery chain that “speed in handling” is required. The report must include:

1. Contractor’s name and address
2. Contract title and number
3. Date
4. Brief statement of problem or event
5. Anticipated impacts
6. Corrective action taken or recommended

B. ES&H Hot Line Reports are to be used to document incidents such as those listed below:

1. Any non-compliance with the provisions of Clause H27 ENVIRONMENTAL, SAFETY, AND HEALTH-ON-SITE SERVICE CONTRACTS is to be reported within 3 calendar days unless specified otherwise below.
2. Any single fatality or injuries requiring hospitalization of five or more individuals is to be immediately reported.
3. Any significant environmental permit violation is to be reported as soon as possible, but no later than 24 hours following the discovery of the incident.
4. Other ES&H incidents that have the potential for visibility in the media are to be reported as quickly as possible, but no later than 24 hours following the discovery of the incident.
5. Any failure resulting in damage to Government-owned equipment in excess of \$50,000 is to be reported as quickly as possible, but no later than 24 hours following the discovery of the failure.
6. Any verbal or written Notice of Violation of any ES&H statutes arising from the performance of this contract is to be immediately reported.
7. Any accidental spill or release that is in violation of any ES&H statutes arising from the performance of this contract is to be immediately reported.
8. Any incident that causes a significant process- or hazard-control-system failure, or is indicative of one that may lead to any of the above-defined incidents, is to be reported as soon as possible, and must be

reported within 5 calendar days of discovery.

9. When an event results in the need to issue a written or verbal statement to the local media, the statement is to be cleared first, if possible, by NETL's Public Relations Officer and coordinated with the COR.

DOE/NETL ES&H REPORTS (DOE O 231.1, M 231.1-1, O 232.1)

- A. The Contractor shall provide information and reports to NETL in support of DOE's reporting requirements contained in DOE O 231.1, ENVIRONMENTAL, SAFETY, AND HEALTH REPORTING, DOE M 231.1-1, ENVIRONMENTAL, SAFETY, AND HEALTH REPORTING MANUAL, and DOE O 231.1, OCCURRENCE REPORTING AND PROCESSING OF OPERATIONS INFORMATION. Content, form, schedule, and applications are provided in the DOE Orders.
- B. Data, information, or reports include, but are not limited to, the following areas (if applicable):
 1. Work-related fatalities, injuries, and illnesses among Contractor employees arising out of work performed primarily at DOE-owned or -leased facilities
 2. Work-hours and vehicle usage
 3. Estimated property valuation
 4. Interim exposure data reporting
 5. Annual exposure data reporting
 6. Radiological exposure to individuals
 7. Annual summary of fire damage
 8. Epidemiologic analyses-excess injuries and illnesses
 9. Occupational, safety, and health information in support of epidemiological studies conducted by external organizations
 10. Quarterly DOE and NETL ES&H performance indicator data
 11. Annual site environmental reports
 12. Annual tabulation of ES&H and quality-related assessments conducted.
- C. As needed, information reports associated with the notification, recording and reporting requirements for accidents and/or incidents shall be prepared in accordance with 29 CFR 1904 and 1910. The Contracting Officer or his/her representative shall be provided with copies of all OSHA-required documentation within 10 calendar days of the associated accident and/or incident.
- D. On a quarterly basis, the Contractor shall report on the following NETL environment, safety, and health indicators (if applicable):
 1. Recordable Injury/Illness Rate (total number of OSHA-defined recordable injuries and illnesses/total hours worked).
 2. Lost Workday Case Rate (total number of OSHA-defined lost workday cases/total hours worked)
 3. OSHA Cost Index (estimated cost of workplace-related injuries and illnesses)

4. Hazardous Waste Generated (total cubic feet of hazardous waste shipped)
5. Metrics and reporting information cited in the Contractor Integrated Safety Management (ISM) Plan

INTEGRATED SAFETY MANAGEMENT PLAN

An Integrated Safety Management (ISM) Implementation Plan shall be developed and submitted by the Contractor. The plan shall describe how the offeror will implement ISM philosophy, as outlined in DOE P 450.4, Safety Management Policy, and Integrated Safety Management System Guide, DOE G 450.4-1, Volumes 1 and 2, into the planning, budgeting, executive, and assessment of work activities. The plan shall provide (1) a process approach to the integration of ISM's five steps (i.e., defining the scope of work, analyzing the hazards, developing and implementing controls, performing work safely, and ensuring performance) into its everyday work activities; (2) a specific management approach to demonstrate ISM's seven guiding principles (i.e., workforce responsibility and accountability; clear roles, responsibilities and authorities; competence commensurate with responsibilities; balance priorities; identification of ES&H standards and requirements; hazard controls tailored to work being performed; and work authorization); and (3) a discussion on how the execution of the offeror's plan will successfully and cost-effectively integrate with NETL's own ISM and ES&H programs for on-site work to be conducted. An annual update is also required.

PROPERTY REPORTS

The NETL Property Handbook entitled "Management of Government Property in the Possession of Contractors," contains forms, instructions, and suggested formats for submission of property reports. This handbook can be found at <http://www.netl.doe.gov/business/property/980576e.pdf>.

REPORT OF CONTRACTOR'S PROPERTY MANAGEMENT SYSTEM

This report shall consist of the Contractor's comprehensive written property management system and is due within 6 months of the contract award date. It shall address the Contractor's written system for controlling, protecting, preserving and maintaining all Government property. The report format shall be consistent with Contractor's system and shall as a minimum enable comprehensive evaluation by the Government. (If not provided in your local format, see sample in the NETL Property Handbook).

ANNUAL REPORT OF PROPERTY IN THE CUSTODY OF CONTRACTORS (NETL F 580.1-8)

This report includes ALL Government-owned Contractor-acquired and Government-furnished property and materials for which the contractor is accountable to the Government. This report shall also include Government Property at subcontractor's plants and alternate locations. This report is submitted on NETL F 580.1-8 for the period ending September 30 and is due by October 15.

HIGH RISK PROPERTY REPORT (NETL F 580.1-25)

Some property, because of its peculiar nature, its potential impact on public health and safety, on the environment, on security interests, or on proliferation concerns, must be handled, controlled, cleared and disposed of in other than the standard manner. High-risk property includes property which is: 1) nuclear-related; 2) proliferation-sensitive or export controlled; 3) chemically, biologically, or radiologically contaminated; 4) national security/military interests; and 5) hazardous materials and wastes. Further definitions of high-risk property can be found at <http://www.management.energy.gov/documents/pp1970-3.pdf>. This report is required by the DOE for the control (acquisition, management and disposal) of high risk property to ensure that such disposition does not adversely affect public safety and/or the environment, national security, or nuclear nonproliferation objectives of the United States. This report shall be submitted for the period ending September 30 and is due by October 15 of each year.

REPORT OF PHYSICAL INVENTORY OF CAPITAL EQUIPMENT

Capital equipment is any piece of personal property, equipment, or furniture with a useful service life of 2 years or

more and is acquired at a unit cost of \$50,000 or more. The suggested format for this report can be found in the NETL Property Handbook at <http://www.netl.doe.gov/business/property/980576e.pdf>. This report is due 2 years from award date and every 2 years thereafter.

REPORT OF PHYSICAL INVENTORY OF SENSITIVE ITEMS

Sensitive items are identified as small calculators, tape recorders, radios, photographic and projection equipment, typewriters and other office machines, firearms, survey instruments, binoculars, power tools, personal computers, printers, external modems, or other equipment, which because of its general use characteristics and ease of transport are particularly susceptible to misappropriation or theft. These items will usually have an acquisition cost of less than \$50,000. The suggested format for this report can be found in the NETL Property Handbook at <http://www.netl.doe.gov/business/property/980576e.pdf>. This report shall be submitted for the period ending September 30 and is due by October 15 of each year.

REPORT OF TERMINATION OR COMPLETION INVENTORY (SF-1428 AND SF-120)

This report submitted on the SF-1428 and SF-120 is due immediately upon completion or termination of the contract. The contractor is required to perform and cause each subcontractor to perform a physical inventory, adequate for disposal purposes, of all Government property applicable to the contract.

SUBCONTRACT REPORTING

With the exception of a small business, reports listed below are required to be submitted electronically by the prime contractor for each contract containing a subcontracting plan. These electronic forms collect subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over \$550,000 of the Government share amount (over \$1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), and Women-Owned Small Business (WOSB) concerns under a subcontracting plan. Subcontract award data reported by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors.

INDIVIDUAL SUBCONTRACTING REPORT (formerly SF-294)

Semi-annual Frequency
Period End Dates: 3/31 and 9/30
Due Dates: 4/30 and 10/30

Note: The first deliverable of this report is due whichever of the two dates is at least 60 calendar days after the award start date.

SUMMARY SUBCONTRACTING REPORT (formerly SF-295)

Annual Frequency
Period End Date: 9/30
Due Date: 10/30

Note: The first deliverable of this report is only required for the next period end date of 9/30, which is at least 60 calendar days after the award start date.

eSRS SUBCONTRACT REPORTING SYSTEM (eSRS)

All individual and summary subcontracting reports must be submitted electronically using the government wide eSRS Subcontract Reporting System. Access to the eSRS can be made at <http://www.esrs.gov>. All contractors must register in the eSRS system and use it to submit the required reports. When registering, the contractor must provide a valid DUNS number. When registration is approved, the contractor may use the system simply by logging in with his or her user name and password and transmit the Individual Subcontracting Report (formerly SF-294) and Summary Subcontracting Report (formerly SF-295) data to the NETL Contracting Office. A comprehensive manual

for the system may be found at <http://www.esrs.gov>.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE REPORT

The contractor's demonstrated compliance with the rules, regulations and policies of the EEO laws, DOE EEO directives (DOE 311.1B) NETL EEO directions (orders, operating plans, and procedures) and other requirements pursuant to the Energy Policy Act of 2005, Public Law 109-58, enacted August 8, 2008.

The compliance report shall address the following areas:

1. Provide information and data analysis on contractor workplace by EEO categories (Blacks, Hispanics, Women, etc.) versus the Civilian Labor Force Index (CLF) for each category.
2. The number of EEO complaints file during the year. The required data should include information on the basis for the complaint and complaint disposition. The basis should include complaints with specific categories such as age, religion, color, natural origin, sexual orientation, race, gender, etc.
3. Provide information on disciplinary actions and their disposition. Disciplinary actions should be grouped into three categories: (1) verbal/written actions; (2) suspensions; and (3) terminations. All data should be grouped by race and gender.
4. Summary of outreach efforts to attract women and minorities for employment and the result of such efforts.
5. Description of programs or efforts to retain women and minorities in their workplace.

Description and number of hours of EEO/Diversity training provided to employees.

J.5 ATTACHMENT B-1 – COST MANAGEMENT/INVOICE DETAIL/SUMMARY STAFFING REPORT FORMS

The Cost Management/Invoice Detail/Summary Staffing Report Forms are provided as a separate attachment entitled “DE-FE0004000-CMR-Staffing-Invoice.xls”.

J.6 ATTACHMENT B-2 – CONTRACT ORGANIZATION CHART

The Contract Organization Chart Forms are provided as a separate attachment entitled “DE-FE0004000-Org-Chart.xls”.

J.7 ATTACHMENT B-3 – SUBCONTRACT STATUS REPORT

A sample template for the Subcontract Status Report are provided as a separate attachment entitled “DE-FE0004000-Subcontract Status Report.xls”.

J.8 ATTACHMENT C - PERFORMANCE EVALUATION PLAN

A. BACKGROUND

1. This Performance Evaluation Plan covers the administration for the award fee provisions of Contract No. DE-FE0004000 for the National Energy Technology Laboratory and provides the standardization necessary to ensure effective development, administration, and coordination of the evaluation process. It is intended as a means to:
 - a. Document how performance during a specific award fee period will be evaluated and fee determined;
 - b. Assure that the Contractor's performance is objectively evaluated in a fair and consistent manner; and
 - c. Afford the Contractor an opportunity to earn fee commensurate with performance expended against performance objectives and expectations.
2. The following matters, among others, are covered in the contract:
 - a. Cost Plus Award Fee (CPAF) CLINs will be employed to provide an incentive and to encourage and reward the Contractor for increasing efficiency in the performance of the contract.
 - b. The term of the contract is for 2 years, with one 2-year option and one 1-year option.
 - c. The estimated cost and total award fee pool will be established in accordance with clause H.15 of the contract.
 - d. The award fee earned will be determined by the process established in this plan and approved by the Fee Determination Official (FDO) in accordance with the terms and conditions of this contract.
 - e. The Government may unilaterally make changes to this plan.
 - f. Fee evaluation period will be in accordance with Part I Section B clause, "Distribution of Performance Award Fee."

B. STRUCTURE FOR AWARD FEE ADMINISTRATION

The following structure is established for administration of the award fee provisions of the contract.

1. Fee Determination Official (FDO)
 - a. The FDO is the Director of the National Energy Technology Laboratory (NETL) who is the Head of the Contracting Activity.
 - b. Primary responsibilities of the FDO include:
 - (1) Determining the Contractor's award fee earned for each evaluation period.
 - (2) Authorizing changes to this plan.
2. Performance Evaluation Board (PEB)

With guidance from the Contracting Officer, the PEB is responsible for evaluating the Contractor's performance and for summarizing the performance evaluation at the end of each evaluation period. The PEB prepares the Award Fee Determination Report and recommends award fee to the FDO.

a) Chairperson and Membership

The Chairperson of the PEB will be a member of the Senior NETL staff and will be designated by the FDO. Membership of the PEB will consist of the Chairperson, the Contracting Officer, the Contracting Officer's Representative, and a representative from each of the primary organizations using this contract as designated by the PEB Chairperson. The Government may change the membership without advance notice to the Contractor.

b) Performance Rater (PR)

PRs will include those NETL staff with management responsibility over some portion of the work performed under the contract. Hence, the PRs may include such NETL staff as the Contracting Officer's Representative (COR), the Task Contracting Officer's Representatives (TCOR), and the Subtask Contracting Officer's Representatives (SCOR). The Technical Project Monitors (TPM) may be required to provide technical performance input/recommendations to their respective PR. The Government may change the PR without advance notice to the Contractor.

PRs will be responsible for evaluation and assessment of the Contractor's Task Performance during the rating period and documenting results at the end of each evaluation period.

The PRs will:

- 1) coordinate with the necessary personnel (i.e. TPM, subject matter experts, program/project managers, technology managers, ES&H staff, NETL Site Support Financial Coordinator, and NETL financial analysts) to develop the performance score and supporting documentation;
- 2) may recommend a score on overall management effectiveness to the PEB and FDO, and;
- 3) meet with the Contractor to discuss and/or review progress on a regularly scheduled basis during the evaluation period.

C. EVALUATION OF THE CONTRACTORS PERFORMANCE

1. Rating Plan

- a. The Contractor's performance will be evaluated and rated according to this Performance Evaluation Plan. The Performance Areas and Performance Area Weights and Award Fee Conversion Plan are attached as indicated below.

	<u>ITEM</u>	<u>EXHIBIT</u>
(1)	Performance Areas and Performance Area Weights	E-1
(2)	Award Fee Conversion Plan	E-2

- b. Exhibit E-2 is a basis for translating performance scores into an award fee for arriving at a recommendation for the FDO's consideration regarding the amount of award fee earned. In no way do they impute arithmetical precision or a requirement that the FDO accept this recommendation as a determination of the amount of award fee warranted for the Contractor's performance during an evaluation period.

2. Award Fee Determination Process

Presented below are process steps that will be followed to evaluate and determine the award fee due to the Contractor, based on performance.

- a. No later than **twenty five (25) calendar days** after the end of the evaluation period, the Chairperson of the PEB will present the draft evaluation findings to the FDO. **The Chairperson of the PEB and Contract COR will resolve issues resulting from the FDO review and present the draft evaluation report to the contractor no later than thirty calendar days (30) after the end of the evaluation period.** The findings will be based on information generated from the Performance Raters of each CLIN and the Performance Rater for Performance Area 2.
- b. The Contractor will be given an opportunity to submit comments to the PEB within five (5) calendar days after NETL's initial evaluation findings are presented.
- c. The report of findings, inclusive of any Contractor comments as well as the PEB's recommendations, will be provided to the FDO within ten (10) calendar days after the Contractor has submitted comments.
- d. Ten (10) calendar days after receipt of the PEB's report, the FDO provides written notification to the Contractor, the PEB Chairman, and the Contracting Officer of the final fee determination.
- e. The Contractor prepares a separate (i.e., apart from regular monthly invoice) voucher(s) based on the FDO's fee notice and submits to the Government for payment.
- f. The Government processes the Contractor's invoice(s) and the fee is paid.

EXHIBIT E-1 -- PERFORMANCE AREAS AND PERFORMANCE AREA WEIGHTS

The Performance Areas to be evaluated are identified below. Each Performance Area shall be evaluated using the described performance measures. The Performance Area Weights for each Performance Area are as indicated.

Performance Area Number	Performance Area Description	Performance Area Weight
1	CLIN Performance	75%
2	Management Performance	25%
	Total	100%

A. PERFORMANCE AREA NO. 1 – CLIN PERFORMANCE

The performance requirements for the CLINs shall be generated by the Government and entail the following elements:

Performance Objective – A statement of outcome or results expected for the work accomplished under the various CLIN work assignments and activity levels which will be issued under the contract.

Performance Measures – The critical few characteristics or aspects to achieving the Performance Objectives and used by the Government to evaluate the performance of the Contractor.

Performance Expectations – The targeted level or range of levels of performance for each Performance Measure.

Performance requirements will be established at the inception of each CLIN issued and may be adjusted through a bilateral change up to fifteen days prior to the beginning of an evaluation period. CLIN CORs will develop performance objectives for the individual CLINs issued and select the appropriate performance measures and corresponding performance expectations. The complete description of available performance measures, expectations and scores is presented in the following section. CLIN CORs will also assign a weighting factor to each performance measure selected for the task order issued such that the total weight is 100%

1. Evaluation and Scoring of Performance Area No. 1

The evaluation process will start at the CLIN level. At the end of the evaluation period, the CLIN COR will evaluate the Contractor’s work within the task order according to the selected performance measures and the accompanying performance expectation levels.

The following table represents an exclusive list of performance measures, respective performance expectation levels, and performance scores available to determine whether or not the Contractor achieves the established performance objectives. Each CLIN COR will select one or more performance measures and select weighting factors to be used to evaluate Contractor performance on the task order.

Performance Measure	Performance Measurement Definition	Performance Expectation Level	Performance Score
Quality of Work	DOE will assess the degree to which research activities meet Performance Objectives for advancing energy R&D (i.e. milestone achievement) and for external professional acceptance and recognition of research products (i.e. peer reviewed publications, IP, external merit review, etc.) Quality will also be assessed based on the degree to which work products are accurate (i.e. meet DOE established criteria for QA, design codes and standards, ISO compliance, etc.), complete and relevant with regard to DOE requests, professional in appearance, and accepted by DOE without revision.	Work activities align with NETL goals and work products are (1) always accurate, complete, relevant, and professional, and are (2) always accepted without revision.	3 (Exceptional)
		Work activities align with NETL goals and work products are (1) consistently accurate, complete, relevant, and professional, and are (2) consistently accepted without revision.	2 (High)
		Work activities align with NETL goals and work products are (1) usually accurate, complete, relevant, and professional, and are (2) usually accepted without significant revision being required.	1 (Average)
		Work activities do not align with NETL goals and/or work products are (1) occasionally accurate, complete, relevant, and professional, and are (2) only occasionally accepted without significant revision being required.	0 (Unacceptable)
Quality and Timeliness of Work Processes	DOE will evaluate the degree to which the Contractor executes work processes to meet Performance Objectives in adherence to, and compliance with, prescribed procedures and requiring no intervention from the Government (i.e. effectiveness of work control process, ability to redirect or provide resources in response to shifting priorities, on-time completion of critical milestones)	Work processes are clearly defined and are (1) always executed to meet critical milestones on schedule and according to prescribed procedures, and (2) require no intervention from the Government.	3 (Exceptional)
		Work processes are clearly defined and are (1) consistently executed to meet critical milestones on schedule and according to prescribed procedures, and (2) require no intervention from the Government.	2 (High)
		Work processes are clearly defined and are (1) usually executed to meet critical milestones on schedule and with little variance from prescribed procedures, and (2) require little intervention from the Government.	1 (Average)
		Work processes are not clearly defined or are (1) occasionally executed to meet critical milestones on schedule and with little variance from prescribed procedures, and (2) require some intervention from the Government.	0 (Unacceptable)
Cost Control and Reporting	DOE will assess adherence to budgets and accuracy of cost estimates, or range of cost variance, accuracy and timeliness of invoicing	Work is consistently performed under budget and costs are consistently accurately estimated; specific cost control measures have been fully demonstrated, invoices are consistently accurate and delivered on a timely basis.	3 (Exceptional)

Performance Measure	Performance Measurement Definition	Performance Expectation Level	Performance Score
		Work is consistently performed under budget and costs are consistently accurately estimated; specific cost control measures have been fully demonstrated, invoices are consistently accurate and delivered on a timely basis.	2 (High)
		Work is usually within or under budget, costs are usually accurately estimated, or cost variance is usually a zero or usually a positive number, invoices are usually accurate and delivered on a timely basis.	1 (Average)
		Work is occasionally within or under budget, costs are occasionally accurately estimated, or cost variance is occasionally a zero or occasionally a positive number, invoices are occasionally accurate and delivered on a timely basis.	0 (Unacceptable)
ES&H Compliance	DOE will assess the achievement of all of the ES&H requirements as outlined in the contract Management Plan, ISM plans, NETL directives, NETL ES&H metrics and Federal, state and local regulations, industry standards, <u>and</u> initiatives for continuous improvement.	Applicable ES&H requirements as outlined in the contract Management Plan ,ISM plans, NETL directives, NETL ES&H metrics and Federal, state and local regulations and industry standards are always achieved <u>and</u> continuous improvement initiatives are consistently achieved.	3 (Exceptional)
		Applicable ES&H requirements as outlined in the contract Management Plan ,ISM plans, NETL directives, NETL ES&H metrics and Federal, state and local regulations and industry standards are consistently achieved <u>and</u> continuous improvement initiatives are usually achieved.	2 (High)
		Applicable ES&H requirements as outlined in the contract Management Plan, ISM plans, NETL directives, NETL ES&H metrics and Federal, state and local regulations and industry standards are usually achieved.	1 (Average)
		Applicable ES&H requirements as outlined in the contract Management Plan, ISM plans, NETL directives, NETL ES&H metrics and Federal, state and local regulations and industry standards are occasionally achieved.	0 (Unacceptable)

All active or completed CLINs during the evaluation period will be objectively evaluated. The Contactor's self assessment will be considered in the selection of the appropriate performance level and respective score for each measure. All scores above and below "satisfactory" will be properly documented. Performance scores will be compiled according to the weights assigned and a score will be generated for each task between 0 and 3.

For example: A CLIN that includes four performance measures, quality of work, quality and

timeliness of work processes, cost control and reporting, and ES&H compliance with assigned weights of 50%, 20%, 15% and 15%, respectively, shall be calculated in the following manner.

CLIN #:			
Performance Measure	Assigned Weighting Factors	Performance Level Score	Weighted Score (Assigned Weight X Performance Level Score)
Quality of Work	50%	2	1.0
Quality and Timeliness of Work Processes	20%	1	0.2
Cost Control and Reporting	15%	2	0.3
ES&H Compliance	15%	2	0.3
CLIN Performance Score			1.8

All CLINs will be evaluated in a similar manner.

2. Generation of Performance Area No. 1 Score

The overall performance score will be between 0 and 3 and will be determined by aggregating individual CLIN scores which will be cost-weighted (based on actual approved invoiced costs for the evaluation period).

The Performance Area No. 1 score will be determined by multiplying the Task Performance Score with its Performance Area Weight (i.e., 0.75).

3. Definitions

Always – on nearly every occasion or with rare exception (or in the 97-100% range)

Consistently – on most occasions or with few exceptions (or in the 90-96% range)

Usually – such as is commonly, typically, or customarily encountered or experienced; 75% or more of the time (or in the 75-89% range)

Occasionally – irregularly, inconsistently, less than 75% of the time; (or in the 0-75% range)

B. PERFORMANCE AREA NO. 2 – MANAGEMENT PERFORMANCE

In addition to task performance, management effectiveness will also be evaluated. The objective of this performance area is to validate the Contractor’s performance of the specific management functions which are identified in the evaluation factors and which are essential to effective and efficient management of the contract.

Management performance shall be evaluated based on the following factors:

- a. **PROBLEM RESOLUTION.** Proactively identifies potential problems and promptly corrects or eliminates undesirable conditions. When reacting to a problem identified outside the contract, the issue is addressed quickly and responses are well thought out. Resolutions are shared with the appropriate individuals in a timely manner. This includes the evaluation of alternative methods, processes, or procedures to accomplish overall requirements within the planned schedule and budget.

- b. **COORDINATION/COMMUNICATION.** Effectively coordinates on-site and off-site support of the contract work tasks, including principal subcontractors and vendors. Effectively communicates with other site support contractors, DOE employees and management to promote successful completion of work tasks.
- c. **INNOVATION AND VALUE ENGINEERING.** Uses innovation to recommend actions or plans for DOE approval which substantially increase the value of support services through cost reduction and/or improvement of results. Value engineering techniques and principles are used to ensure the best economical engineering solutions are achieved.
- d. **FINANCIAL AND MANAGEMENT REPORTING.** Provides accurate and timely cost data, contractual reports, invoices, plans, and proposals per the contract's terms and conditions.
- e. **CONTRACT ADMINISTRATION.** Complies with the contract's terms and conditions affecting the contract (e.g., cost, EEO, issuance of limitation of cost letters on a task and subtask basis). Submits accurate and timely reporting requirements (e.g., proposal submissions, subcontract consent documentation, property reports, financial management reporting requirements). Responsive to requests for change proposals and project plans. Submits timely, complete proposals and is cooperative in negotiating changes. Includes coordination and cooperation with third party NETL contractors who do not have a contractual relationship with the Contractor.
- f. **COST EFFECTIVENESS.** Develops and implements practices and processes resulting in cost efficiencies.
- g. **MANPOWER MANAGEMENT.** Manages direct and indirect labor and other costs as identified in the authorized plans to successfully complete work tasks. The demonstrated ability to manage the Contractor labor pool such that the proper skill mix is availability to identify and address requirements; the labor pool is fully occupied and engaged; and labor and other direct costs are managed as identified in the task's or subtask's authorized plan.
- h. **ENVIRONMENT, SAFETY, AND HEALTH (ES&H).** The contractor's ability to:
 1. Comply with contractually identified Federal, State, and local ES&H requirements and NETL's ES&H directives.
 2. Develop, implement, and maintain the contractor's ISM plan.
 3. Apply ISM's seven principles and five functions in the planning, budgeting, execution, and improvement of its management and work activities.
 4. Support NETL's ES&H objective and targets.
 5. Support NETL's ISO 14001 and OHSAS 18001 certifications.
- i. **RISK MANAGEMENT.** The demonstrated ability to ensure risk is managed such that services provided, managed, and supported are reliable, their availability is maximized, and their performance is optimized.
- j. **SOCIOECONOMIC.** The demonstrated ability to achieve or exceed socioeconomic goals identified in the DOE-approved Subcontracting Plan.
- k. **PARTNERSHIPS.** The demonstrated ability to develop partnerships that complements, advances, or augments NETL's scientific and technological capabilities. Partnership significance criteria will be described in the ordering document.

The Contractor shall be evaluated on the ability to provide objective evidence indicating the demonstration of the management quality factors listed above. The breadth and depth of demonstration will be primary factor evaluated. This performance measure will be scored from 0 to 4 as outlined below.

<u>Performance Measure</u>	<u>Performance Expectation Level</u>	<u>Performance Score*</u>
Quality of Contractor Management	Full demonstration (e.g., all factors demonstrated through objective evidence) of quality management factors, with particular attention to cost effectiveness demonstration.	3
	Widespread demonstration (e.g., high majority of factors objectively demonstrated) of quality management factors, including cost effectiveness.	2.5
	Good demonstration (e.g., majority of factors objectively demonstrated) of quality management factors.	2
	Fair demonstration (e.g., some of the factors objectively demonstrated) of quality management factors.	1
	Poor demonstration (e.g., most of the factors not objectively demonstrated) of quality management factors	0

* Performance Scores for Performance Area No. 2 can be issued between performance scores (e.g., 1.8) based on the breadth and depth of objective evidence provided.

2. Generation of Performance Area No. 2 Score

The Performance Area No. 2 score will be determined by multiplying the Management Performance Score with its Performance Area Weight (i.e., 0.25)

C. CALCULATION OF OVERALL PERFORMANCE SCORE

The Overall Performance Score will be determined at the CLIN level. This performance score will be determined by adding the Performance Area No. 1 score and the Performance Area No. 2 score for each separate CLIN issued as an Award Fee Order. The Award Fee conversion will be calculated at the CLIN level in accordance with Exhibit E-2. The sum of all Award Fee earned for each CLIN will be the total Award Fee earned for the Contract for the fee period identified and will be the amount identified in Clause B.8, Distribution of Performance Award Fee.

EXHIBIT E-2 -- AWARD FEE CONVERSION PLAN

The following chart device will be used in converting weighted performance points into percentages of available award fee. The Overall Performance Score will be rounded to the nearest tenth of point prior to conversion to Available Award Fee Percentage.

OVERALL PERFORMANCE SCORE	AVAILABLE AWARD FEE PERCENTAGE
3.0	100
2.9	98
2.8	96
2.7	94
2.6	92
2.5	90
2.4	86
2.3	82
2.2	78
2.1	74
2.0	70
1.9	66
1.8	62
1.7	58
1.6	54
1.5	50
1.4	46
1.3	42
1.2	38
1.1	34
1.0	30
0.9	25
0.8	20
0.7	15
Below 0.7	0

J.9 ATTACHMENT D - POSITION QUALIFICATIONS

	DESCRIPTION
Business Manager	(1) at least five (5) years of management responsibility for an administrative staff of at least twenty (20) personnel with responsibility for providing administrative support and services to a technical or research organization (i.e., professionals, engineers, scientists, technicians, craftsmen, etc.) with at least 75 employees; and (2) a Bachelor's degree
Electrical Technician 4	Specific training and thorough knowledge of electrical maintenance and installation, plus a broad knowledge of other disciplines such as general math, geometry, electronics, etc.
Electrician	Shall possess an apprentice license and a valid state driver license and be qualified to operate government general-purpose vehicles. Shall be a certified electrician.
Engineer 1	Bachelor's degree in engineering (e.g., chemical, civil, electrical, environmental, industrial, mechanical, safety, software), or related scientific/engineering field.
Engineer 2	Bachelor's degree in engineering (e.g., chemical, civil, electrical, environmental, industrial, mechanical, petroleum, safety, software), or related scientific/engineering field. At least three (3) years of job-related experience.
Engineer 3	Bachelor's degree in engineering (e.g., chemical, civil, electrical, environmental, industrial, mechanical, petroleum, safety, software), or related scientific/engineering field. At least five (5) years of job-related experience, or a Master's degree.
Engineer 4	Bachelor's degree in engineering (e.g., chemical, civil, electrical, environmental, industrial, mechanical, petroleum, safety, software), or related scientific/engineering field. At least eight (8) years of job-related experience, or a Master's degree and three (3) years of job-related experience, or a Ph.D. A Professional Engineer's license may substitute for two (2) years of experience.
Engineer 5	Bachelor's degree in engineering (e.g., chemical, civil, electrical, environmental, industrial, mechanical, petroleum, safety, software), or related scientific/engineering field. At least eleven (11) years of job-related experience, or a Master's degree and 6 years of job-related experience, or a Ph.D. and three (3) years of job-related experience. A Professional Engineer's license may substitute for two (2) years of experience.
Engineer 6	Bachelor's degree in engineering (e.g., chemical, civil, electrical, environmental, industrial, mechanical, petroleum, safety, software), or related scientific/engineering field. At least fifteen (15) years of job-related experience, or a Master's degree and ten (10) years of job-related experience, or a Ph.D. and seven (7) years of job-related experience. A Professional Engineer's license may substitute for two (2) years of experience.
Engineer 7	Bachelor's degree in engineering (e.g., chemical, civil, electrical, environmental, industrial, mechanical, petroleum, safety, software), or related scientific/engineering field. At least twenty (20) years of job-related experience, or a Masters Degree and fifteen (15) years of job-related experience, or a Ph.D. and 12 years of job-related experience. A Professional Engineer's license may substitute for 2 years of experience.
Engineer 8	Bachelor's degree in engineering (e.g., chemical, civil, electrical, environmental, industrial, mechanical, petroleum, safety, software), or related scientific/engineering field. At least twenty-five (25) years of job-related experience, or a Masters Degree and twenty (20) years of job-related experience, or a Ph.D. and seventeen (17) years of job-related experience. A Professional Engineer's license may substitute for two (2) years of

	experience.
Engineering Technician 1	High diploma or GED.
Engineering Technician 2	Vocational/technical training beyond high school and at least three (3) years of job-related experience or equivalent.
Engineering Technician 3	Vocational/technical training beyond high school and at least five (5) years of job-related experience or equivalent.
Engineering Technician 4	Vocational/technical training beyond high school and at least seven (7) years of job-related experience or equivalent.
Engineering Technician 5	Vocational/technical training beyond high school and at least ten (10) years of job-related experience or equivalent.
Engineering Specialist 1	(1) Vocational/technical school diploma or associate's degree or (2) at least two (2) years of job related experience.
Engineering Specialist 2	(1) Vocational/technical school diploma or associate's degree with at least four (4) years of job related experience or (2) at least eight (8) years of job related experience.
Engineering Specialist 3	(1) Vocational/technical school diploma or associate's degree with at least eight (8) years of job related experience or (2) at least twelve (12) years of job related experience.
Engineering Specialist 4	(1) Vocational/technical school diploma or associate's degree with at least twelve (12) years of job related experience or (3) at least sixteen (16) years of job related experience.
Environmental, Safety and Health Specialist 1	Bachelor's degree in an ES&H or ES&H-related field (e.g., safety, environmental science, engineering, chemistry, biology or other sciences). ES&H-related experience may be substituted for educational requirements.
Environmental, Safety and Health Specialist 2	Bachelor's degree in an ES&H or ES&H-related field (e.g., safety, environmental science, engineering, chemistry, biology or other sciences). Three years of position-related experience. ES&H-related experience may be substituted for educational requirements.
Environmental, Safety and Health Specialist 3	Bachelor's degree in an ES&H or ES&H-related field (e.g., safety, environmental science, engineering, chemistry, biology or other sciences). Five (5) years of position-related experience. ES&H-related experience may be substituted for educational requirements.
Environmental, Safety and Health Specialist 4	Bachelor's degree in an ES&H or ES&H-related field (e.g., safety, environmental science, engineering, chemistry, biology or other sciences). Seven (7) years of position-related experience. ES&H-related experience may be substituted for educational requirements.
Environmental, Safety and Health Specialist 5	Bachelor's degree in an ES&H or ES&H-related field (e.g., safety, environmental science, engineering, chemistry, biology or other sciences). Ten (10) years of position-related experience.
Environmental, Safety and Health Specialist 6 / Environmental, Safety and Health (ES&H) Manager	Master's, Ph.D., or equivalent degree in an ES&H or ES&H-related field (e.g., safety, environmental science, engineering, chemistry, biology or other sciences). Fifteen years of position-related experience.
Facility Maintenance Technician III	High school diploma or GED and specific training and thorough knowledge of facility maintenance, plus a broad knowledge of other disciplines such as general math, geometry, electronics, etc. At least five (5) years of job related experience. (Bachelor's degree in a related field may substitute for two (2) years of job-related experience.) Be

	able to attain site certification in heavy equipment operation.
Facility Maintenance Technician IV	High school diploma or GED and specific training and thorough knowledge of facility maintenance, plus a broad knowledge of other disciplines such as general math, geometry, etc. Seven (7) to nine (9) years of job related experience. (Bachelor's degree in a related field may substitute for two years of job-related experience.) Hold on-site certification for heavy equipment operation.
Financial Budget Analyst	Bachelor's degree in Business Administration or a related field and seven (7) years of job related experience or equivalent.
General Clerk 1	Knowledge of high school commercial or general courses. Up to one (1) year of related work experience.
General Clerk 2	Knowledge of high school commercial or general courses. Up to two (2) years related work experience.
General Clerk 3	High school diploma or GED, with a commercial or general background. Up to four (4) years experience.
General Clerk 4	High school diploma or GED, with commercial or general background. More than four (4) years experience.
Maintenance Foreman	High school diploma or GED and five (5) years of job related experience. Requires knowledge of numerous maintenance trades, job estimating methods, safety procedures, and human resources training.
Maintenance Service Lead	High school diploma or GED, seven (7) years of job related experience, specific training and thorough knowledge in the particular area of facility maintenance, and a broad knowledge of other disciplines such as general math, geometry, etc. Knowledge of applicable state and Federal laws and company policies and procedure. Hold on-site certification for heavy equipment operation.
Maintenance Supervisor	Vocational/technical training beyond high school and ten (10) years of job related experience; or equivalent experience (Three years of job-related experience may substitute for an Associate's degree in a related field). Position requires the ability to pass and maintain a Security Clearance.
Maintenance Manager	Vocational/technical training beyond high school and fifteen (15) years of job related experience or equivalent experience (Three years of job-related experience may substitute for an Associate's degree in a related field).
Operator Mechanic	High school diploma or GED; practical knowledge and/or formal training in several maintenance trades. Hold required site certifications.
Plumber	High school diploma or GED. Qualified journeyman in accordance with union rules. Maintain certification and/or licenses required by State or local authorities.
Program/Project Administrator	Bachelor's degree in engineering, or related field of expertise and 10 years of job related experience or equivalent.
Program Manager	Advanced degree in a scientific, engineering, or business field with more than twenty (20) years of related work experience in the management, operation, or administration of multi-million dollar research, development, demonstration, or commercial programs, projects, and facilities; more than ten (10) years of consecutive experience in managing diverse and integrated work forces (e.g. professions, engineers, scientists, technicians, craftsmen, etc.)
Program Management Support Specialist III	High school diploma or GED with at least 10 years experience in the management of administrative, computer database, and/or training systems.

Property Control Specialist 3	High diploma or GED and three (5) years of inventory control or related work experience.
Property Control Specialist 4	High diploma or GED and seven (7) years of inventory control or related work experience.
Quality Assurance/Control Specialist 1	(1) Vocational/technical school diploma or associate's degree or (2) at least four (4) years of job related experience. Auditors shall possess certified quality auditor certifications. Varying levels of certifications recognized through the American Society for Quality will be required.
Quality Assurance/Control Specialist 2	(1) Vocational/technical school diploma or associate's degree, with at least four (4) years of job related experience or (2) at least eight (8) years of job related experience. Auditors shall possess certified quality auditor certifications. Varying levels of certifications recognized through the American Society for Quality will be required.
Quality Assurance/Control Specialist 3	(1) Vocational/technical school diploma or associate's degree, with at least eight (8) years of job related experience or (2) at least twelve (12) years of job related experience. Auditors shall possess certified quality auditor certifications. Varying levels of certifications recognized through the American Society for Quality will be required.
Quality Assurance Manager	<ol style="list-style-type: none"> (1) more than eight (8) years of general experience in auditing, developing, managing, and implementing QA Programs which conform to the requirements of ANSI/ASME NQA-1; and (2) more than five (5) consecutive years of QA management work experience in staff positions reporting to senior program managers; and (3) more than five (5) years of management responsibility for a staff of more than two (2) Quality Assurance auditors, inspectors, or engineers qualified to perform inspection and test per the requirements of ASME NQA-1; and (4) a Bachelor's degree in a scientific or engineering field. <p>Auditors shall possess certified quality auditor certifications. Varying levels of certifications recognized through the American Society for Quality will be required.</p>
Scientist 1	Bachelor's degree in a science or science-related field (e.g., biology, chemistry, economics, geology, mathematics, physics).
Scientist 2	Bachelor's degree in a science or science-related field (e.g., biology, chemistry, economics, geology, mathematics, physics) and 3 years of job-related experience.
Scientist 3	Bachelor's degree in a science or science-related field (e.g., biology, chemistry, economics, geology, mathematics, physics) and 5 years of job-related experience or a Master's degree.
Scientist 4	Bachelor's degree in a science or science-related field (e.g., biology, chemistry, economics, geology, mathematics, physics) and 8 years of job-related experience, or a Master's degree and 3 years of job-related experience, or a Ph.D.
Scientist 5	Bachelor's degree in a science or science-related field (e.g., biology, chemistry, economics, geology, mathematics, physics) or related science field and 11 years of job-related experience, or a Master's degree and 6 years of job-related experience, or a Ph.D. and 3 years of job-related experience.
Scientist 6	Bachelor's degree in a science or science-related field (e.g., biology, chemistry, economics, geology, mathematics, physics) and 15 years of job-related experience, or a Master's degree and 10 years of job-related experience, or Ph.D. and 7 years of job-related experience.
Scientist 7	Bachelor's degree in a science or science-related field (e.g., biology, chemistry, economics, geology, mathematics, physics) and 20 years of job-related experience, or a Master's degree and 15 years of job-related experience, or Ph.D. and 12 years of job-

	related experience.
Scientist 8	Bachelor's degree in a science or science-related field (e.g., biology, chemistry, economics, geology, mathematics, physics) and 25 years of job-related experience, or a Master's degree and 20 years of job-related experience, or Ph.D. and 17 years of job-related experience.
Secretary 1	(1) Vocational/technical diploma or associate's degree or (2) four (4) years of job related experience. Good communication and analytical skills and a working knowledge of computer system and software application programs.
Secretary 2	(1) Vocational/technical school diploma or associate's degree with at least four (4) years of job related experience or (2) at least eight (8) years of job related experience. Excellent communication and analytical skills and a working knowledge of computer system and software application programs.
Secretary 3	(1) Vocational/technical school diploma or associate's degree with at least eight (8) years of job related experience or (2) at least twelve (12) years of job related experience. Excellent communication and analytical skills and a working knowledge of computer system and software application programs.
Secretary 4	(1) Vocational/technical school diploma or associate's degree with at least twelve (12) years of job related experience or (2) at least sixteen (16) years of job related experience. Excellent communication and analytical skills and a working knowledge of computer system and software application programs.
Secretary 5	(1) Vocational/technical school diploma or associate's degree with at least sixteen (16) years of job related experience or (2) at least twenty (20) years of job related experience. Excellent communication and analytical skills and a working knowledge of computer system and software application programs.

J.10 ATTACHMENT E – WAGE DETERMINATIONS/COLLECTIVE BARGAINING AGREEMENTS

The following list of Department of Labor Wage Determinations (WD) and Collective Bargaining Agreements (CBA) are incorporated in this contract and are provided in a separate file attachment entitled “DE-FE0004000-WD-CBA.PDF:

This Attachment includes the following Wage Determinations as issued by DOL:

WD 2005-2573 Rev 6 (7/18/2008)

WD 2005-2451 Rev 7 (5/29/2008)

WD 2005-2439 Rev 7 (6/9/2008)

WD CBA-2007-1011 Rev 1

WD CBA-2007-1012

WD CBA-2007-1013

J.11 ATTACHMENT F -- SMALL BUSINESS SUBCONTRACTING PLAN

The Contractor's Small Business Subcontracting Plan is incorporated by reference and is included in a separate file entitled DE-FE0004000- Subcontracting Plan.pdf

J.10 ATTACHMENT E – WAGE DETERMINATIONS/COLLECTIVE BARGAINING AGREEMENTS

The following list of Department of Labor Wage Determinations (WD) and Collective Bargaining Agreements (CBA) are incorporated in this contract and are provided in a separate file attachment entitled "000665-WD-CBA.PDF:

This Attachment includes the following Wage Determinations as issued by DOL:

WD 2005-2573 Rev 6 (7/18/2008)
WD 2005-2451 Rev 7 (5/29/2008)
WD 2005-2439 Rev 7 (6/9/2008)
WD CBA-2007-1011 Rev 1
WD CBA-2007-1012
WD CBA-2007-1013

WD 05-2573 (Rev.-6) was first posted on www.wdol.gov on 07/29/2008

REGISTER OF WAGE DETERMINATIONS UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON D.C. 20210

Shirley F. Ebbesen Division of
Director Wage Determinations

Wage Determination No.: 2005-2573
Revision No.: 6
Date Of Revision: 07/18/2008

States: Kentucky, Ohio, West Virginia

Area: Kentucky Counties of Boyd, Carter, Elliott, Floyd, Greenup, Johnson, Lawrence,
Lewis, Magoffin, Martin, Pike

Ohio Counties of Monroe, Morgan, Noble, Washington

West Virginia - All Counties except : Berkeley, Jefferson

Note: West Virginia include all counties except Berkeley and Jefferson counties.

Fringe Benefits Required Follow the Occupational Listing

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support And Clerical Occupations	
01011 - Accounting Clerk I	12.43
01012 - Accounting Clerk II	18.04
01013 - Accounting Clerk III	20.19
01020 - Administrative Assistant	16.51
01040 - Court Reporter	18.99
01051 - Data Entry Operator I	11.12
01052 - Data Entry Operator II	12.18
01060 - Dispatcher, Motor Vehicle	14.02
01070 - Document Preparation Clerk	11.19
01090 - Duplicating Machine Operator	11.19
01111 - General Clerk I	10.56
01112 - General Clerk II	12.02
01113 - General Clerk III	13.50
01120 - Housing Referral Assistant	14.85
01141 - Messenger Courier	9.11
01191 - Order Clerk I	11.17
01192 - Order Clerk II	13.28
01261 - Personnel Assistant (Employment) I	14.65
01262 - Personnel Assistant (Employment) II	16.97
01263 - Personnel Assistant (Employment) III	19.07
01270 - Production Control Clerk	17.47
01280 - Receptionist	9.45
01290 - Rental Clerk	11.99
01300 - Scheduler, Maintenance	11.99
01311 - Secretary I	11.99
01312 - Secretary II	13.41
01313 - Secretary III	14.63
01320 - Service Order Dispatcher	13.19
01410 - Supply Technician	16.51
01420 - Survey Worker	13.41

01531 - Travel Clerk I	11.87
01532 - Travel Clerk II	12.67
01533 - Travel Clerk III	13.51
01611 - Word Processor I	12.30
01612 - Word Processor II	13.82
01613 - Word Processor III	15.44
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer, Fiberglass	15.24
05010 - Automotive Electrician	14.72
05040 - Automotive Glass Installer	14.22
05070 - Automotive Worker	14.22
05110 - Mobile Equipment Servicer	13.17
05130 - Motor Equipment Metal Mechanic	15.24
05160 - Motor Equipment Metal Worker	14.22
05190 - Motor Vehicle Mechanic	15.24
05220 - Motor Vehicle Mechanic Helper	12.61
05250 - Motor Vehicle Upholstery Worker	13.72
05280 - Motor Vehicle Wrecker	14.22
05310 - Painter, Automotive	14.72
05340 - Radiator Repair Specialist	14.22
05370 - Tire Repairer	12.55
05400 - Transmission Repair Specialist	15.25
07000 - Food Preparation And Service Occupations	
07010 - Baker	9.39
07041 - Cook I	8.97
07042 - Cook II	9.70
07070 - Dishwasher	7.16
07130 - Food Service Worker	7.79
07210 - Meat Cutter	10.92
07260 - Waiter/Waitress	8.03
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	14.72
09040 - Furniture Handler	11.58
09080 - Furniture Refinisher	14.72
09090 - Furniture Refinisher Helper	12.62
09110 - Furniture Repairer, Minor	13.71
09130 - Upholsterer	14.72
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	7.89
11060 - Elevator Operator	7.99
11090 - Gardener	10.47
11122 - Housekeeping Aide	8.43
11150 - Janitor	9.38
11210 - Laborer, Grounds Maintenance	8.46
11240 - Maid or Houseman	7.66
11260 - Pruner	8.73
11270 - Tractor Operator	9.68
11330 - Trail Maintenance Worker	8.46
11360 - Window Cleaner	9.43
12000 - Health Occupations	
12010 - Ambulance Driver	10.93
12011 - Breath Alcohol Technician	14.43
12012 - Certified Occupational Therapist Assistant	19.37
12015 - Certified Physical Therapist Assistant	16.91
12020 - Dental Assistant	12.57
12025 - Dental Hygienist	21.28
12030 - EKG Technician	17.00
12035 - Electroneurodiagnostic Technologist	17.00
12040 - Emergency Medical Technician	12.02
12071 - Licensed Practical Nurse I	12.86

12072 - Licensed Practical Nurse II	14.43
12073 - Licensed Practical Nurse III	16.09
12100 - Medical Assistant	10.26
12130 - Medical Laboratory Technician	15.09
12160 - Medical Record Clerk	10.77
12190 - Medical Record Technician	13.54
12195 - Medical Transcriptionist	11.66
12210 - Nuclear Medicine Technologist	27.32
12221 - Nursing Assistant I	8.99
12222 - Nursing Assistant II	10.12
12223 - Nursing Assistant III	11.03
12224 - Nursing Assistant IV	12.38
12235 - Optical Dispenser	14.94
12236 - Optical Technician	11.02
12250 - Pharmacy Technician	13.41
12280 - Phlebotomist	12.38
12305 - Radiologic Technologist	20.10
12311 - Registered Nurse I	19.44
12312 - Registered Nurse II	23.78
12313 - Registered Nurse II, Specialist	23.78
12314 - Registered Nurse III	28.77
12315 - Registered Nurse III, Anesthetist	28.77
12316 - Registered Nurse IV	34.49
12317 - Scheduler (Drug and Alcohol Testing)	17.86
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	14.52
13012 - Exhibits Specialist II	17.99
13013 - Exhibits Specialist III	22.00
13041 - Illustrator I	14.52
13042 - Illustrator II	17.99
13043 - Illustrator III	22.00
13047 - Librarian	19.94
13050 - Library Aide/Clerk	8.42
13054 - Library Information Technology Systems Administrator	18.16
13058 - Library Technician	13.41
13061 - Media Specialist I	12.98
13062 - Media Specialist II	14.51
13063 - Media Specialist III	16.19
13071 - Photographer I	13.62
13072 - Photographer II	15.23
13073 - Photographer III	18.87
13074 - Photographer IV	23.08
13075 - Photographer V	27.93
13110 - Video Teleconference Technician	12.63
14000 - Information Technology Occupations	
14041 - Computer Operator I	13.53
14042 - Computer Operator II	15.13
14043 - Computer Operator III	16.86
14044 - Computer Operator IV	18.74
14045 - Computer Operator V	21.11
14071 - Computer Programmer I (1)	15.53
14072 - Computer Programmer II (1)	19.23
14073 - Computer Programmer III (1)	23.54
14074 - Computer Programmer IV (1)	
14101 - Computer Systems Analyst I (1)	26.43
14102 - Computer Systems Analyst II (1)	
14103 - Computer Systems Analyst III (1)	
14150 - Peripheral Equipment Operator	13.53
14160 - Personal Computer Support Technician	18.74
15000 - Instructional Occupations	

15010 - Aircrew Training Devices Instructor (Non-Rated)	24.08
15020 - Aircrew Training Devices Instructor (Rated)	29.14
15030 - Air Crew Training Devices Instructor (Pilot)	34.54
15050 - Computer Based Training Specialist / Instructor	23.23
15060 - Educational Technologist	22.62
15070 - Flight Instructor (Pilot)	34.54
15080 - Graphic Artist	18.11
15090 - Technical Instructor	17.34
15095 - Technical Instructor/Course Developer	21.22
15110 - Test Proctor	13.98
15120 - Tutor	13.98
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	8.62
16030 - Counter Attendant	8.62
16040 - Dry Cleaner	10.92
16070 - Finisher, Flatwork, Machine	8.62
16090 - Presser, Hand	8.62
16110 - Presser, Machine, Drycleaning	8.62
16130 - Presser, Machine, Shirts	8.62
16160 - Presser, Machine, Wearing Apparel, Laundry	8.62
16190 - Sewing Machine Operator	11.67
16220 - Tailor	12.40
16250 - Washer, Machine	9.33
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	15.25
19040 - Tool And Die Maker	17.40
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	15.30
21030 - Material Coordinator	17.47
21040 - Material Expediter	17.47
21050 - Material Handling Laborer	9.75
21071 - Order Filler	10.71
21080 - Production Line Worker (Food Processing)	15.30
21110 - Shipping Packer	13.73
21130 - Shipping/Receiving Clerk	13.73
21140 - Store Worker I	11.34
21150 - Stock Clerk	15.24
21210 - Tools And Parts Attendant	15.30
21410 - Warehouse Specialist	15.30
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	23.20
23021 - Aircraft Mechanic I	22.05
23022 - Aircraft Mechanic II	23.20
23023 - Aircraft Mechanic III	24.21
23040 - Aircraft Mechanic Helper	17.81
23050 - Aircraft, Painter	20.59
23060 - Aircraft Servicer	19.35
23080 - Aircraft Worker	20.06
23110 - Appliance Mechanic	16.19
23120 - Bicycle Repairer	12.72
23125 - Cable Splicer	23.22
23130 - Carpenter, Maintenance	16.42
23140 - Carpet Layer	15.63
23160 - Electrician, Maintenance	20.01
23181 - Electronics Technician Maintenance I	12.84
23182 - Electronics Technician Maintenance II	20.44
23183 - Electronics Technician Maintenance III	21.44
23260 - Fabric Worker	15.42
23290 - Fire Alarm System Mechanic	17.53
23310 - Fire Extinguisher Repairer	15.15

23311 - Fuel Distribution System Mechanic	19.94
23312 - Fuel Distribution System Operator	15.50
23370 - General Maintenance Worker	15.63
23380 - Ground Support Equipment Mechanic	22.05
23381 - Ground Support Equipment Servicer	19.35
23382 - Ground Support Equipment Worker	20.06
23391 - Gunsmith I	14.34
23392 - Gunsmith II	16.45
23393 - Gunsmith III	18.38
23410 - Heating, Ventilation And Air-Conditioning Mechanic	16.98
23411 - Heating, Ventilation And Air Contditioning Mechanic (Research Facility)	
17.75	
23430 - Heavy Equipment Mechanic	17.61
23440 - Heavy Equipment Operator	17.05
23460 - Instrument Mechanic	19.65
23465 - Laboratory/Shelter Mechanic	17.52
23470 - Laborer	9.75
23510 - Locksmith	16.19
23530 - Machinery Maintenance Mechanic	19.62
23550 - Machinist, Maintenance	17.52
23580 - Maintenance Trades Helper	12.94
23591 - Metrology Technician I	19.65
23592 - Metrology Technician II	20.54
23593 - Metrology Technician III	21.23
23640 - Millwright	19.65
23710 - Office Appliance Repairer	17.02
23760 - Painter, Maintenance	17.17
23790 - Pipefitter, Maintenance	20.20
23810 - Plumber, Maintenance	19.50
23820 - Pneudraulic Systems Mechanic	18.38
23850 - Rigger	19.65
23870 - Scale Mechanic	16.45
23890 - Sheet-Metal Worker, Maintenance	18.81
23910 - Small Engine Mechanic	15.62
23931 - Telecommunications Mechanic I	22.31
23932 - Telecommunications Mechanic II	23.10
23950 - Telephone Lineman	22.31
23960 - Welder, Combination, Maintenance	17.70
23965 - Well Driller	17.53
23970 - Woodcraft Worker	18.38
23980 - Woodworker	14.72
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	7.14
24580 - Child Care Center Clerk	8.91
24610 - Chore Aide	7.00
24620 - Family Readiness And Support Services Coordinator	8.74
24630 - Homemaker	9.48
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	19.69
25040 - Sewage Plant Operator	16.85
25070 - Stationary Engineer	19.69
25190 - Ventilation Equipment Tender	14.03
25210 - Water Treatment Plant Operator	16.19
27000 - Protective Service Occupations	
27004 - Alarm Monitor	10.25
27007 - Baggage Inspector	9.08
27008 - Corrections Officer	13.74
27010 - Court Security Officer	15.06
27030 - Detection Dog Handler	10.28
27040 - Detention Officer	13.74

27070 - Firefighter	16.40
27101 - Guard I	9.08
27102 - Guard II	10.28
27131 - Police Officer I	16.15
27132 - Police Officer II	17.97
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	9.41
28042 - Carnival Equipment Repairer	9.85
28043 - Carnival Equipment Worker	7.70
28210 - Gate Attendant/Gate Tender	12.36
28310 - Lifeguard	11.34
28350 - Park Attendant (Aide)	13.66
28510 - Recreation Aide/Health Facility Attendant	10.09
28515 - Recreation Specialist	12.14
28630 - Sports Official	10.41
28690 - Swimming Pool Operator	13.18
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	15.21
29020 - Hatch Tender	15.21
29030 - Line Handler	15.21
29041 - Stevedore I	14.41
29042 - Stevedore II	15.56
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (2)	33.96
30011 - Air Traffic Control Specialist, Station (HFO) (2)	23.42
30012 - Air Traffic Control Specialist, Terminal (HFO) (2)	25.79
30021 - Archeological Technician I	16.95
30022 - Archeological Technician II	18.94
30023 - Archeological Technician III	23.48
30030 - Cartographic Technician	23.90
30040 - Civil Engineering Technician	17.60
30061 - Drafter/CAD Operator I	16.78
30062 - Drafter/CAD Operator II	20.47
30063 - Drafter/CAD Operator III	21.49
30064 - Drafter/CAD Operator IV	22.56
30081 - Engineering Technician I	14.25
30082 - Engineering Technician II	15.99
30083 - Engineering Technician III	19.55
30084 - Engineering Technician IV	23.78
30085 - Engineering Technician V	29.63
30086 - Engineering Technician VI	35.53
30090 - Environmental Technician	17.30
30210 - Laboratory Technician	19.62
30240 - Mathematical Technician	24.49
30361 - Paralegal/Legal Assistant I	16.61
30362 - Paralegal/Legal Assistant II	19.41
30363 - Paralegal/Legal Assistant III	23.76
30364 - Paralegal/Legal Assistant IV	28.75
30390 - Photo-Optics Technician	24.54
30461 - Technical Writer I	18.24
30462 - Technical Writer II	23.31
30463 - Technical Writer III	26.98
30491 - Unexploded Ordnance (UXO) Technician I	21.58
30492 - Unexploded Ordnance (UXO) Technician II	26.11
30493 - Unexploded Ordnance (UXO) Technician III	31.30
30494 - Unexploded (UXO) Safety Escort	21.58
30495 - Unexploded (UXO) Sweep Personnel	21.58
30620 - Weather Observer, Combined Upper Air Or Surface Programs (3)	19.59
30621 - Weather Observer, Senior (3)	21.78
31000 - Transportation/Mobile Equipment Operation Occupations	

31020 - Bus Aide	8.45
31030 - Bus Driver	11.58
31043 - Driver Courier	9.72
31260 - Parking and Lot Attendant	8.02
31290 - Shuttle Bus Driver	10.51
31310 - Taxi Driver	8.48
31361 - Truckdriver, Light	10.49
31362 - Truckdriver, Medium	12.69
31363 - Truckdriver, Heavy	14.43
31364 - Truckdriver, Tractor-Trailer	14.43
99000 - Miscellaneous Occupations	
99030 - Cashier	7.02
99050 - Desk Clerk	7.53
99095 - Embalmer	20.91
99251 - Laboratory Animal Caretaker I	8.25
99252 - Laboratory Animal Caretaker II	8.90
99310 - Mortician	28.15
99410 - Pest Controller	12.69
99510 - Photofinishing Worker	10.09
99710 - Recycling Laborer	11.68
99711 - Recycling Specialist	13.46
99730 - Refuse Collector	10.58
99810 - Sales Clerk	9.93
99820 - School Crossing Guard	10.14
99830 - Survey Party Chief	15.89
99831 - Surveying Aide	9.83
99832 - Surveying Technician	13.49
99840 - Vending Machine Attendant	11.40
99841 - Vending Machine Repairer	12.83
99842 - Vending Machine Repairer Helper	11.40

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.24 per hour or \$129.60 per week or \$561.60 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 8 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

- 1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)
- 2) APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is

entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.

3) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C) (vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation) and computes a proposed rate).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour decision to the contractor.
- 6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure

that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

WD 05-2451 (Rev.-7) was first posted on www.wdol.gov on 06/03/2008

REGISTER OF WAGE DETERMINATIONS UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON D.C. 20210

Shirley F. Ebbesen Division of
Director Wage Determinations

Wage Determination No.: 2005-2451
Revision No.: 7
Date Of Revision: 05/29/2008

States: Ohio, Pennsylvania

Area: Ohio Counties of Belmont, Harrison, Jefferson, Tuscarawas
Pennsylvania Counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler,
Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie,
Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean,
Mercer, Potter, Somerset, Venango, Warren, Washington, Westmoreland

Fringe Benefits Required Follow the Occupational Listing

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support And Clerical Occupations	
01011 - Accounting Clerk I	13.33
01012 - Accounting Clerk II	15.72
01013 - Accounting Clerk III	20.33
01020 - Administrative Assistant	21.11
01040 - Court Reporter	17.78
01051 - Data Entry Operator I	11.06
01052 - Data Entry Operator II	13.25
01060 - Dispatcher, Motor Vehicle	15.45
01070 - Document Preparation Clerk	11.66
01090 - Duplicating Machine Operator	11.56
01111 - General Clerk I	10.48
01112 - General Clerk II	13.88
01113 - General Clerk III	15.05
01120 - Housing Referral Assistant	18.30
01141 - Messenger Courier	9.78
01191 - Order Clerk I	13.17
01192 - Order Clerk II	15.74
01261 - Personnel Assistant (Employment) I	14.40
01262 - Personnel Assistant (Employment) II	15.51
01263 - Personnel Assistant (Employment) III	18.17
01270 - Production Control Clerk	18.12
01280 - Receptionist	11.56
01290 - Rental Clerk	14.59
01300 - Scheduler, Maintenance	14.20
01311 - Secretary I	14.18
01312 - Secretary II	16.96
01313 - Secretary III	18.21
01320 - Service Order Dispatcher	15.06
01410 - Supply Technician	21.11
01420 - Survey Worker	14.33
01531 - Travel Clerk I	11.44
01532 - Travel Clerk II	12.28

01533 - Travel Clerk III	13.17
01611 - Word Processor I	12.79
01612 - Word Processor II	15.43
01613 - Word Processor III	16.54
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer, Fiberglass	17.98
05010 - Automotive Electrician	17.31
05040 - Automotive Glass Installer	16.65
05070 - Automotive Worker	16.65
05110 - Mobile Equipment Servicer	15.43
05130 - Motor Equipment Metal Mechanic	17.93
05160 - Motor Equipment Metal Worker	16.65
05190 - Motor Vehicle Mechanic	18.21
05220 - Motor Vehicle Mechanic Helper	14.83
05250 - Motor Vehicle Upholstery Worker	16.04
05280 - Motor Vehicle Wrecker	16.65
05310 - Painter, Automotive	18.53
05340 - Radiator Repair Specialist	16.65
05370 - Tire Repairer	13.96
05400 - Transmission Repair Specialist	17.93
07000 - Food Preparation And Service Occupations	
07010 - Baker	10.98
07041 - Cook I	10.88
07042 - Cook II	12.08
07070 - Dishwasher	8.33
07130 - Food Service Worker	8.61
07210 - Meat Cutter	11.32
07260 - Waiter/Waitress	8.86
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	16.22
09040 - Furniture Handler	12.62
09080 - Furniture Refinisher	16.22
09090 - Furniture Refinisher Helper	13.89
09110 - Furniture Repairer, Minor	15.03
09130 - Upholsterer	16.22
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	9.28
11060 - Elevator Operator	11.02
11090 - Gardener	13.43
11122 - Housekeeping Aide	10.93
11150 - Janitor	12.96
11210 - Laborer, Grounds Maintenance	10.94
11240 - Maid or Houseman	10.20
11260 - Pruner	12.96
11270 - Tractor Operator	12.59
11330 - Trail Maintenance Worker	10.94
11360 - Window Cleaner	13.78
12000 - Health Occupations	
12010 - Ambulance Driver	12.64
12011 - Breath Alcohol Technician	15.88
12012 - Certified Occupational Therapist Assistant	18.84
12015 - Certified Physical Therapist Assistant	17.79
12020 - Dental Assistant	12.80
12025 - Dental Hygienist	19.02
12030 - EKG Technician	20.82
12035 - Electroneurodiagnostic Technologist	20.82
12040 - Emergency Medical Technician	12.64
12071 - Licensed Practical Nurse I	14.14
12072 - Licensed Practical Nurse II	15.88
12073 - Licensed Practical Nurse III	17.76

12100 - Medical Assistant	11.73
12130 - Medical Laboratory Technician	15.64
12160 - Medical Record Clerk	13.16
12190 - Medical Record Technician	16.42
12195 - Medical Transcriptionist	13.22
12210 - Nuclear Medicine Technologist	23.09
12221 - Nursing Assistant I	9.47
12222 - Nursing Assistant II	10.64
12223 - Nursing Assistant III	11.07
12224 - Nursing Assistant IV	12.42
12235 - Optical Dispenser	11.48
12236 - Optical Technician	11.09
12250 - Pharmacy Technician	12.19
12280 - Phlebotomist	12.93
12305 - Radiologic Technologist	19.01
12311 - Registered Nurse I	22.50
12312 - Registered Nurse II	26.10
12313 - Registered Nurse II, Specialist	26.10
12314 - Registered Nurse III	33.10
12315 - Registered Nurse III, Anesthetist	33.10
12316 - Registered Nurse IV	34.88
12317 - Scheduler (Drug and Alcohol Testing)	19.73
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	20.46
13012 - Exhibits Specialist II	26.07
13013 - Exhibits Specialist III	28.16
13041 - Illustrator I	19.11
13042 - Illustrator II	24.36
13043 - Illustrator III	26.32
13047 - Librarian	24.59
13050 - Library Aide/Clerk	10.34
13054 - Library Information Technology Systems Administrator	20.34
13058 - Library Technician	14.60
13061 - Media Specialist I	15.60
13062 - Media Specialist II	17.43
13063 - Media Specialist III	19.41
13071 - Photographer I	14.35
13072 - Photographer II	18.24
13073 - Photographer III	21.49
13074 - Photographer IV	25.11
13075 - Photographer V	30.36
13110 - Video Teleconference Technician	14.06
14000 - Information Technology Occupations	
14041 - Computer Operator I	14.44
14042 - Computer Operator II	15.86
14043 - Computer Operator III	18.84
14044 - Computer Operator IV	20.94
14045 - Computer Operator V	23.18
14071 - Computer Programmer I (1)	20.31
14072 - Computer Programmer II (1)	23.57
14073 - Computer Programmer III (1)	
14074 - Computer Programmer IV (1)	
14101 - Computer Systems Analyst I (1)	
14102 - Computer Systems Analyst II (1)	
14103 - Computer Systems Analyst III (1)	
14150 - Peripheral Equipment Operator	14.44
14160 - Personal Computer Support Technician	20.94
15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	25.09
15020 - Aircrew Training Devices Instructor (Rated)	30.38

15030 - Air Crew Training Devices Instructor (Pilot)	34.24
15050 - Computer Based Training Specialist / Instructor	27.62
15060 - Educational Technologist	29.84
15070 - Flight Instructor (Pilot)	34.24
15080 - Graphic Artist	20.56
15090 - Technical Instructor	18.56
15095 - Technical Instructor/Course Developer	23.00
15110 - Test Proctor	16.96
15120 - Tutor	16.96
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	8.54
16030 - Counter Attendant	8.54
16040 - Dry Cleaner	10.64
16070 - Finisher, Flatwork, Machine	8.54
16090 - Presser, Hand	8.54
16110 - Presser, Machine, Drycleaning	8.54
16130 - Presser, Machine, Shirts	8.54
16160 - Presser, Machine, Wearing Apparel, Laundry	8.54
16190 - Sewing Machine Operator	11.35
16220 - Tailor	12.05
16250 - Washer, Machine	9.24
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	16.21
19040 - Tool And Die Maker	22.76
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	15.61
21030 - Material Coordinator	19.20
21040 - Material Expediter	19.20
21050 - Material Handling Laborer	18.10
21071 - Order Filler	13.89
21080 - Production Line Worker (Food Processing)	15.61
21110 - Shipping Packer	13.72
21130 - Shipping/Receiving Clerk	13.72
21140 - Store Worker I	12.47
21150 - Stock Clerk	15.81
21210 - Tools And Parts Attendant	15.61
21410 - Warehouse Specialist	15.61
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	21.06
23021 - Aircraft Mechanic I	20.33
23022 - Aircraft Mechanic II	21.06
23023 - Aircraft Mechanic III	22.65
23040 - Aircraft Mechanic Helper	16.07
23050 - Aircraft, Painter	19.92
23060 - Aircraft Servicer	17.84
23080 - Aircraft Worker	18.86
23110 - Appliance Mechanic	19.92
23120 - Bicycle Repairer	13.96
23125 - Cable Splicer	24.52
23130 - Carpenter, Maintenance	20.21
23140 - Carpet Layer	17.94
23160 - Electrician, Maintenance	22.81
23181 - Electronics Technician Maintenance I	19.07
23182 - Electronics Technician Maintenance II	22.49
23183 - Electronics Technician Maintenance III	24.60
23260 - Fabric Worker	17.38
23290 - Fire Alarm System Mechanic	21.02
23310 - Fire Extinguisher Repairer	16.39
23311 - Fuel Distribution System Mechanic	21.50
23312 - Fuel Distribution System Operator	18.49

23370 - General Maintenance Worker	15.60
23380 - Ground Support Equipment Mechanic	20.33
23381 - Ground Support Equipment Servicer	17.39
23382 - Ground Support Equipment Worker	18.40
23391 - Gunsmith I	16.39
23392 - Gunsmith II	18.40
23393 - Gunsmith III	20.33
23410 - Heating, Ventilation And Air-Conditioning Mechanic	18.95
23411 - Heating, Ventilation And Air Contditioning Mechanic (Research Facility)	
19.69	
23430 - Heavy Equipment Mechanic	18.54
23440 - Heavy Equipment Operator	20.60
23460 - Instrument Mechanic	20.56
23465 - Laboratory/Shelter Mechanic	19.42
23470 - Laborer	14.78
23510 - Locksmith	18.41
23530 - Machinery Maintenance Mechanic	21.00
23550 - Machinist, Maintenance	18.41
23580 - Maintenance Trades Helper	14.94
23591 - Metrology Technician I	20.56
23592 - Metrology Technician II	21.40
23593 - Metrology Technician III	22.35
23640 - Millwright	20.86
23710 - Office Appliance Repairer	18.41
23760 - Painter, Maintenance	19.35
23790 - Pipefitter, Maintenance	25.44
23810 - Plumber, Maintenance	20.86
23820 - Pneudraulic Systems Mechanic	20.33
23850 - Rigger	20.33
23870 - Scale Mechanic	18.40
23890 - Sheet-Metal Worker, Maintenance	22.92
23910 - Small Engine Mechanic	17.11
23931 - Telecommunications Mechanic I	23.24
23932 - Telecommunications Mechanic II	24.07
23950 - Telephone Lineman	22.87
23960 - Welder, Combination, Maintenance	17.08
23965 - Well Driller	16.85
23970 - Woodcraft Worker	20.33
23980 - Woodworker	14.45
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	10.58
24580 - Child Care Center Clerk	11.80
24610 - Chore Aide	9.23
24620 - Family Readiness And Support Services Coordinator	11.57
24630 - Homemaker	12.26
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	23.07
25040 - Sewage Plant Operator	18.58
25070 - Stationary Engineer	23.07
25190 - Ventilation Equipment Tender	16.11
25210 - Water Treatment Plant Operator	18.58
27000 - Protective Service Occupations	
27004 - Alarm Monitor	13.92
27007 - Baggage Inspector	10.08
27008 - Corrections Officer	20.06
27010 - Court Security Officer	20.55
27030 - Detection Dog Handler	14.84
27040 - Detention Officer	20.06
27070 - Firefighter	20.55
27101 - Guard I	10.08

27102 - Guard II	14.84
27131 - Police Officer I	24.82
27132 - Police Officer II	26.93
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	9.78
28042 - Carnival Equipment Repairer	10.16
28043 - Carnival Equipment Worker	8.33
28210 - Gate Attendant/Gate Tender	12.53
28310 - Lifeguard	10.94
28350 - Park Attendant (Aide)	14.02
28510 - Recreation Aide/Health Facility Attendant	10.23
28515 - Recreation Specialist	13.87
28630 - Sports Official	11.16
28690 - Swimming Pool Operator	18.27
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	18.98
29020 - Hatch Tender	18.98
29030 - Line Handler	18.98
29041 - Stevedore I	17.94
29042 - Stevedore II	19.37
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (2)	33.41
30011 - Air Traffic Control Specialist, Station (HFO) (2)	23.04
30012 - Air Traffic Control Specialist, Terminal (HFO) (2)	25.38
30021 - Archeological Technician I	14.84
30022 - Archeological Technician II	16.62
30023 - Archeological Technician III	20.55
30030 - Cartographic Technician	24.59
30040 - Civil Engineering Technician	21.90
30061 - Drafter/CAD Operator I	16.27
30062 - Drafter/CAD Operator II	19.55
30063 - Drafter/CAD Operator III	20.55
30064 - Drafter/CAD Operator IV	25.09
30081 - Engineering Technician I	16.06
30082 - Engineering Technician II	18.06
30083 - Engineering Technician III	20.98
30084 - Engineering Technician IV	24.00
30085 - Engineering Technician V	27.48
30086 - Engineering Technician VI	33.22
30090 - Environmental Technician	21.09
30210 - Laboratory Technician	20.26
30240 - Mathematical Technician	25.09
30361 - Paralegal/Legal Assistant I	17.49
30362 - Paralegal/Legal Assistant II	22.76
30363 - Paralegal/Legal Assistant III	26.95
30364 - Paralegal/Legal Assistant IV	27.74
30390 - Photo-Optics Technician	26.70
30461 - Technical Writer I	21.84
30462 - Technical Writer II	24.25
30463 - Technical Writer III	26.14
30491 - Unexploded Ordnance (UXO) Technician I	21.24
30492 - Unexploded Ordnance (UXO) Technician II	25.70
30493 - Unexploded Ordnance (UXO) Technician III	30.80
30494 - Unexploded (UXO) Safety Escort	21.24
30495 - Unexploded (UXO) Sweep Personnel	21.24
30620 - Weather Observer, Combined Upper Air Or Surface Programs (2)	20.55
30621 - Weather Observer, Senior (2)	22.14
31000 - Transportation/Mobile Equipment Operation Occupations	
31020 - Bus Aide	13.37
31030 - Bus Driver	18.40

31043 - Driver Courier	13.74
31260 - Parking and Lot Attendant	9.10
31290 - Shuttle Bus Driver	14.65
31310 - Taxi Driver	10.92
31361 - Truckdriver, Light	14.65
31362 - Truckdriver, Medium	17.07
31363 - Truckdriver, Heavy	18.69
31364 - Truckdriver, Tractor-Trailer	18.69
99000 - Miscellaneous Occupations	
99030 - Cashier	7.74
99050 - Desk Clerk	8.42
99095 - Embalmer	21.24
99251 - Laboratory Animal Caretaker I	10.80
99252 - Laboratory Animal Caretaker II	11.34
99310 - Mortician	23.98
99410 - Pest Controller	15.49
99510 - Photofinishing Worker	10.94
99710 - Recycling Laborer	17.23
99711 - Recycling Specialist	19.85
99730 - Refuse Collector	15.92
99810 - Sales Clerk	10.02
99820 - School Crossing Guard	9.09
99830 - Survey Party Chief	15.66
99831 - Surveying Aide	9.33
99832 - Surveying Technician	14.23
99840 - Vending Machine Attendant	13.41
99841 - Vending Machine Repairer	15.10
99842 - Vending Machine Repairer Helper	13.41

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.24 per hour or \$129.60 per week or \$561.60 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 8 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

1) Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541.400) wage

rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

- (1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
- (2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
- (3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
- (4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract

(either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4 6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation) and computes a proposed rate).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the

contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

WD 05-2439 (Rev.-7) was first posted on www.wdol.gov on 06/17/2008

REGISTER OF WAGE DETERMINATIONS UNDER
 THE SERVICE CONTRACT ACT
 By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR
 EMPLOYMENT STANDARDS ADMINISTRATION
 WAGE AND HOUR DIVISION
 WASHINGTON D.C. 20210

Shirley F. Ebbesen Division of
 Director Wage Determinations

Wage Determination No.: 2005-2439
 Revision No.: 7
 Date Of Revision: 06/09/2008

State: Oregon

Area: Oregon Counties of Benton, Coos, Crook, Curry, Deschutes, Douglas, Jackson,
 Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn

****Fringe Benefits Required Follow the Occupational Listing****

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support And Clerical Occupations	
01011 - Accounting Clerk I	11.76
01012 - Accounting Clerk II	13.43
01013 - Accounting Clerk III	15.02
01020 - Administrative Assistant	18.57
01040 - Court Reporter	14.99
01051 - Data Entry Operator I	11.01
01052 - Data Entry Operator II	12.08
01060 - Dispatcher, Motor Vehicle	16.58
01070 - Document Preparation Clerk	11.93
01090 - Duplicating Machine Operator	11.93
01111 - General Clerk I	11.10
01112 - General Clerk II	12.45
01113 - General Clerk III	13.98
01120 - Housing Referral Assistant	16.70
01141 - Messenger Courier	11.96
01191 - Order Clerk I	12.96
01192 - Order Clerk II	14.27
01261 - Personnel Assistant (Employment) I	14.55
01262 - Personnel Assistant (Employment) II	15.93
01263 - Personnel Assistant (Employment) III	17.43
01270 - Production Control Clerk	17.89
01280 - Receptionist	11.91
01290 - Rental Clerk	11.70
01300 - Scheduler, Maintenance	13.40
01311 - Secretary I	13.40
01312 - Secretary II	14.99
01313 - Secretary III	16.70
01320 - Service Order Dispatcher	14.77
01410 - Supply Technician	18.57
01420 - Survey Worker	12.77
01531 - Travel Clerk I	12.58
01532 - Travel Clerk II	13.62
01533 - Travel Clerk III	14.65
01611 - Word Processor I	12.49
01612 - Word Processor II	14.02

01613 - Word Processor III	15.68
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer, Fiberglass	22.66
05010 - Automotive Electrician	16.52
05040 - Automotive Glass Installer	15.39
05070 - Automotive Worker	15.75
05110 - Mobile Equipment Servicer	13.88
05130 - Motor Equipment Metal Mechanic	17.28
05160 - Motor Equipment Metal Worker	15.75
05190 - Motor Vehicle Mechanic	17.28
05220 - Motor Vehicle Mechanic Helper	13.08
05250 - Motor Vehicle Upholstery Worker	14.97
05280 - Motor Vehicle Wrecker	15.75
05310 - Painter, Automotive	17.76
05340 - Radiator Repair Specialist	15.75
05370 - Tire Repairer	12.48
05400 - Transmission Repair Specialist	17.28
07000 - Food Preparation And Service Occupations	
07010 - Baker	12.35
07041 - Cook I	10.81
07042 - Cook II	12.23
07070 - Dishwasher	8.44
07130 - Food Service Worker	9.16
07210 - Meat Cutter	14.77
07260 - Waiter/Waitress	9.07
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	13.76
09040 - Furniture Handler	10.59
09080 - Furniture Refinisher	13.76
09090 - Furniture Refinisher Helper	11.14
09110 - Furniture Repairer, Minor	12.48
09130 - Upholsterer	13.76
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	9.85
11060 - Elevator Operator	10.31
11090 - Gardener	13.75
11122 - Housekeeping Aide	10.03
11150 - Janitor	10.80
11210 - Laborer, Grounds Maintenance	11.48
11240 - Maid or Houseman	8.90
11260 - Pruner	12.52
11270 - Tractor Operator	13.15
11330 - Trail Maintenance Worker	11.48
11360 - Window Cleaner	11.61
12000 - Health Occupations	
12010 - Ambulance Driver	16.76
12011 - Breath Alcohol Technician	16.03
12012 - Certified Occupational Therapist Assistant	22.00
12015 - Certified Physical Therapist Assistant	22.00
12020 - Dental Assistant	16.42
12025 - Dental Hygienist	36.10
12030 - EKG Technician	24.30
12035 - Electroneurodiagnostic Technologist	24.30
12040 - Emergency Medical Technician	16.76
12071 - Licensed Practical Nurse I	13.94
12072 - Licensed Practical Nurse II	15.64
12073 - Licensed Practical Nurse III	17.88
12100 - Medical Assistant	14.59
12130 - Medical Laboratory Technician	15.10
12160 - Medical Record Clerk	13.59

12190 - Medical Record Technician	15.55
12195 - Medical Transcriptionist	15.37
12210 - Nuclear Medicine Technologist	34.15
12221 - Nursing Assistant I	9.12
12222 - Nursing Assistant II	10.26
12223 - Nursing Assistant III	11.20
12224 - Nursing Assistant IV	12.57
12235 - Optical Dispenser	13.87
12236 - Optical Technician	13.04
12250 - Pharmacy Technician	13.88
12280 - Phlebotomist	13.59
12305 - Radiologic Technologist	24.86
12311 - Registered Nurse I	19.86
12312 - Registered Nurse II	24.30
12313 - Registered Nurse II, Specialist	24.30
12314 - Registered Nurse III	29.40
12315 - Registered Nurse III, Anesthetist	29.40
12316 - Registered Nurse IV	35.24
12317 - Scheduler (Drug and Alcohol Testing)	19.86
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	18.27
13012 - Exhibits Specialist II	22.63
13013 - Exhibits Specialist III	27.69
13041 - Illustrator I	18.27
13042 - Illustrator II	22.63
13043 - Illustrator III	27.69
13047 - Librarian	25.07
13050 - Library Aide/Clerk	13.68
13054 - Library Information Technology Systems Administrator	22.63
13058 - Library Technician	16.92
13061 - Media Specialist I	16.32
13062 - Media Specialist II	18.27
13063 - Media Specialist III	20.37
13071 - Photographer I	16.33
13072 - Photographer II	18.27
13073 - Photographer III	22.63
13074 - Photographer IV	27.04
13075 - Photographer V	32.74
13110 - Video Teleconference Technician	13.35
14000 - Information Technology Occupations	
14041 - Computer Operator I	14.41
14042 - Computer Operator II	16.10
14043 - Computer Operator III	17.96
14044 - Computer Operator IV	19.96
14045 - Computer Operator V	22.10
14071 - Computer Programmer I (1)	17.79
14072 - Computer Programmer II (1)	22.52
14073 - Computer Programmer III (1)	26.97
14074 - Computer Programmer IV (1)	27.62
14101 - Computer Systems Analyst I (1)	25.80
14102 - Computer Systems Analyst II (1)	27.62
14103 - Computer Systems Analyst III (1)	27.62
14150 - Peripheral Equipment Operator	14.41
14160 - Personal Computer Support Technician	25.15
15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	25.34
15020 - Aircrew Training Devices Instructor (Rated)	28.63
15030 - Air Crew Training Devices Instructor (Pilot)	34.32
15050 - Computer Based Training Specialist / Instructor	23.54
15060 - Educational Technologist	32.18

15070 - Flight Instructor (Pilot)	34.32
15080 - Graphic Artist	20.58
15090 - Technical Instructor	15.81
15095 - Technical Instructor/Course Developer	22.33
15110 - Test Proctor	14.18
15120 - Tutor	14.18
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	9.03
16030 - Counter Attendant	9.03
16040 - Dry Cleaner	11.70
16070 - Finisher, Flatwork, Machine	9.03
16090 - Presser, Hand	9.03
16110 - Presser, Machine, Drycleaning	9.03
16130 - Presser, Machine, Shirts	9.03
16160 - Presser, Machine, Wearing Apparel, Laundry	9.03
16190 - Sewing Machine Operator	12.58
16220 - Tailor	13.470
16250 - Washer, Machine	9.67
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	16.23
19040 - Tool And Die Maker	20.83
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	14.67
21030 - Material Coordinator	17.89
21040 - Material Expediter	17.89
21050 - Material Handling Laborer	12.69
21071 - Order Filler	12.26
21080 - Production Line Worker (Food Processing)	14.67
21110 - Shipping Packer	12.45
21130 - Shipping/Receiving Clerk	12.45
21140 - Store Worker I	11.81
21150 - Stock Clerk	15.32
21210 - Tools And Parts Attendant	14.67
21410 - Warehouse Specialist	14.67
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	22.90
23021 - Aircraft Mechanic I	21.81
23022 - Aircraft Mechanic II	22.90
23023 - Aircraft Mechanic III	24.05
23040 - Aircraft Mechanic Helper	15.62
23050 - Aircraft, Painter	19.91
23060 - Aircraft Servicer	18.91
23080 - Aircraft Worker	19.54
23110 - Appliance Mechanic	15.36
23120 - Bicycle Repairer	11.43
23125 - Cable Splicer	21.04
23130 - Carpenter, Maintenance	19.14
23140 - Carpet Layer	17.77
23160 - Electrician, Maintenance	24.90
23181 - Electronics Technician Maintenance I	21.18
23182 - Electronics Technician Maintenance II	23.23
23183 - Electronics Technician Maintenance III	24.32
23260 - Fabric Worker	16.74
23290 - Fire Alarm System Mechanic	23.52
23310 - Fire Extinguisher Repairer	15.71
23311 - Fuel Distribution System Mechanic	19.84
23312 - Fuel Distribution System Operator	15.71
23370 - General Maintenance Worker	15.82
23380 - Ground Support Equipment Mechanic	21.81
23381 - Ground Support Equipment Servicer	18.91

23382 - Ground Support Equipment Worker	19.54
23391 - Gunsmith I	15.71
23392 - Gunsmith II	17.77
23393 - Gunsmith III	19.84
23410 - Heating, Ventilation And Air-Conditioning Mechanic	19.77
23411 - Heating, Ventilation And Air Contdditioning Mechanic (Research Facility)	
20.79	
23430 - Heavy Equipment Mechanic	21.59
23440 - Heavy Equipment Operator	19.78
23460 - Instrument Mechanic	19.84
23465 - Laboratory/Shelter Mechanic	18.80
23470 - Laborer	11.45
23510 - Locksmith	18.80
23530 - Machinery Maintenance Mechanic	20.55
23550 - Machinist, Maintenance	18.10
23580 - Maintenance Trades Helper	12.25
23591 - Metrology Technician I	19.84
23592 - Metrology Technician II	20.86
23593 - Metrology Technician III	21.90
23640 - Millwright	21.04
23710 - Office Appliance Repairer	18.09
23760 - Painter, Maintenance	15.28
23790 - Pipefitter, Maintenance	23.14
23810 - Plumber, Maintenance	21.56
23820 - Pneudraulic Systems Mechanic	19.84
23850 - Rigger	19.84
23870 - Scale Mechanic	17.77
23890 - Sheet-Metal Worker, Maintenance	21.90
23910 - Small Engine Mechanic	17.77
23931 - Telecommunications Mechanic I	24.09
23932 - Telecommunications Mechanic II	25.34
23950 - Telephone Lineman	19.91
23960 - Welder, Combination, Maintenance	14.44
23965 - Well Driller	19.84
23970 - Woodcraft Worker	19.84
23980 - Woodworker	16.18
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	10.22
24580 - Child Care Center Clerk	12.74
24610 - Chore Aide	10.01
24620 - Family Readiness And Support Services Coordinator	13.45
24630 - Homemaker	16.36
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	19.84
25040 - Sewage Plant Operator	20.07
25070 - Stationary Engineer	19.84
25190 - Ventilation Equipment Tender	14.68
25210 - Water Treatment Plant Operator	20.07
27000 - Protective Service Occupations	
27004 - Alarm Monitor	18.41
27007 - Baggage Inspector	10.48
27008 - Corrections Officer	20.56
27010 - Court Security Officer	20.56
27030 - Detection Dog Handler	15.86
27040 - Detention Officer	20.56
27070 - Firefighter	20.00
27101 - Guard I	10.48
27102 - Guard II	15.86
27131 - Police Officer I	24.72
27132 - Police Officer II	27.46

28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	12.41
28042 - Carnival Equipment Repairer	13.19
28043 - Carnival Equipment Worker	10.12
28210 - Gate Attendant/Gate Tender	12.73
28310 - Lifeguard	10.82
28350 - Park Attendant (Aide)	14.24
28510 - Recreation Aide/Health Facility Attendant	11.10
28515 - Recreation Specialist	15.59
28630 - Sports Official	11.34
28690 - Swimming Pool Operator	18.73
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	17.77
29020 - Hatch Tender	17.77
29030 - Line Handler	17.77
29041 - Stevedore I	18.91
29042 - Stevedore II	21.61
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (2)	33.96
30011 - Air Traffic Control Specialist, Station (HFO) (2)	23.42
30012 - Air Traffic Control Specialist, Terminal (HFO) (2)	25.79
30021 - Archeological Technician I	15.98
30022 - Archeological Technician II	17.91
30023 - Archeological Technician III	22.15
30030 - Cartographic Technician	21.51
30040 - Civil Engineering Technician	23.84
30061 - Drafter/CAD Operator I	14.94
30062 - Drafter/CAD Operator II	17.02
30063 - Drafter/CAD Operator III	18.98
30064 - Drafter/CAD Operator IV	23.35
30081 - Engineering Technician I	15.19
30082 - Engineering Technician II	17.75
30083 - Engineering Technician III	19.86
30084 - Engineering Technician IV	24.60
30085 - Engineering Technician V	30.09
30086 - Engineering Technician VI	36.41
30090 - Environmental Technician	21.08
30210 - Laboratory Technician	19.78
30240 - Mathematical Technician	21.08
30361 - Paralegal/Legal Assistant I	17.43
30362 - Paralegal/Legal Assistant II	21.59
30363 - Paralegal/Legal Assistant III	26.41
30364 - Paralegal/Legal Assistant IV	31.96
30390 - Photo-Optics Technician	21.08
30461 - Technical Writer I	15.67
30462 - Technical Writer II	19.15
30463 - Technical Writer III	23.18
30491 - Unexploded Ordnance (UXO) Technician I	21.58
30492 - Unexploded Ordnance (UXO) Technician II	26.11
30493 - Unexploded Ordnance (UXO) Technician III	31.30
30494 - Unexploded (UXO) Safety Escort	21.58
30495 - Unexploded (UXO) Sweep Personnel	21.58
30620 - Weather Observer, Combined Upper Air Or Surface Programs (2)	18.98
30621 - Weather Observer, Senior (2)	21.08
31000 - Transportation/Mobile Equipment Operation Occupations	
31020 - Bus Aide	10.75
31030 - Bus Driver	14.27
31043 - Driver Courier	12.44
31260 - Parking and Lot Attendant	9.88
31290 - Shuttle Bus Driver	13.32

31310 - Taxi Driver	11.52
31361 - Truckdriver, Light	13.32
31362 - Truckdriver, Medium	16.83
31363 - Truckdriver, Heavy	15.15
31364 - Truckdriver, Tractor-Trailer	15.15
99000 - Miscellaneous Occupations	
99030 - Cashier	9.81
99050 - Desk Clerk	10.22
99095 - Embalmer	21.58
99251 - Laboratory Animal Caretaker I	9.69
99252 - Laboratory Animal Caretaker II	10.75
99310 - Mortician	21.58
99410 - Pest Controller	16.27
99510 - Photofinishing Worker	11.34
99710 - Recycling Laborer	12.08
99711 - Recycling Specialist	14.06
99730 - Refuse Collector	13.00
99810 - Sales Clerk	12.67
99820 - School Crossing Guard	11.28
99830 - Survey Party Chief	21.52
99831 - Surveying Aide	13.52
99832 - Surveying Technician	18.40
99840 - Vending Machine Attendant	16.47
99841 - Vending Machine Repairer	19.94
99842 - Vending Machine Repairer Helper	16.47

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.24 per hour or \$129.60 per week or \$561.60 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

1) Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541.400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates

that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an

employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A link to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C) (vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation) and computes a proposed rate).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

NATIONAL ENERGY TECHNOLOGY LABORATORY
COST MANAGEMENT REPORT

Reporting Period:		7/30/2008 to 8/30/2008		Identification Number:		DE-NT005432 Mod # A001																
Cost Plan Dates:		10/01/2008 to 9/30/2009		Contract Start Date:		10/1/2008																
Contract Completion Date:		9/30/2011		Contract Completion Date:		9/30/2011																
		Projections																				
Reporting Entity	12 Program Number	13 WFO Or Project No	14 Local Use	Obligations			Plan			Reporting Period			Accrued Costs			Cumulative to Date			26 Open Commitments	27 Next Month Plan	28 FY Total Cost	29 Funds Expiration
				15 Prior FY Funding	16 Current FY Obligations	17 Total Obligations	18 Approved FY Cost Plan	19 Total Plan Value	20 Actual	21 Plan	22 Actual	23 FY Bal of Plan	24 Actual	25 Plan	24 Actual	25 Plan						
20201	1610328			0	2,000	2,000	150,000	156,000	53,060	140,007	2,500	53,060	140,007	91,158	40,000	2,000	231,166	5/17/08				
20201	1610232			1,000	4,000	5,000	56,000	56,000	16,756	44,992	2,600	16,756	44,992	5,000	1	3	3	5/17/08				
20201	1610247			1,000	4,000	5,000	56,000	56,000	16,000	45,000	2,600	16,000	45,000	22	1	3	3	5/17/08				
				1,000	10,000	11,000	262,000	268,000	85,816	229,999	7,700	85,816	229,999	96,187	40,002	2,006	233,172					
20318	1610328			120,000		120,000	-	204,649	0	0	-	0	-	15,677	60,000	-	-	5/17/08				
20221	1610232			15,000		15,000	-	164,085	0	0	-	0	-	12,568	1,000	-	-	5/17/08				
20318	1610232			132,000	15,000	147,000	200,000	164,085	13,000	75,000	25,000	13,000	75,000	13,000	2,500	25,000	85,000	4/25/09				
				132,000	15,000	147,000	200,000	368,734	13,000	75,000	25,000	13,000	75,000	41,245	63,500	25,000	85,000					
20221	1720285			122,000	0	122,000	-	350,649	17,677	33,503	68,737	228,857	68,737	206,957	139,287	7,000	435,814	5/17/08				
20221	1610257			21,000	0	21,000	-	220,085	14,568	27,458	29,323	116,231	29,323	121,845	83,888	11,000	238,076	5/17/08				
20221	1720285			143,000	10,000	153,000	350,000	720,649	32,245	60,961	98,060	345,088	98,060	328,802	223,175	18,000	673,890					
				143,000	10,000	153,000	350,000	1,304,383														

24 Signature of Participant's Project Manager and Date

25 Signature of Participant's Authorized Financial Representative and Date

J.10 ATTACHMENT E – WAGE DETERMINATIONS/COLLECTIVE BARGAINING AGREEMENTS

The following list of Department of Labor Wage Determinations (WD) and Collective Bargaining Agreements (CBA) are incorporated in this contract and are provided in a separate file attachment entitled “000665-WD-CBA.PDF:

This Attachment includes the following Wage Determinations as issued by DOL:

- WD 2005-2573 Rev 6 (7/18/2008)
- WD 2005-2451 Rev 7 (5/29/2008)
- WD 2005-2439 Rev 7 (6/9/2008)
- WD CBA-2007-1011 Rev 1
- WD CBA-2007-1012
- WD CBA-2007-1013

WD 05-2573 (Rev.-6) was first posted on www.wdol.gov on 07/29/2008

REGISTER OF WAGE DETERMINATIONS UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON D.C. 20210

Shirley F. Ebbesen Division of
Director Wage Determinations

Wage Determination No.: 2005-2573
Revision No.: 6
Date Of Revision: 07/18/2008

States: Kentucky, Ohio, West Virginia

Area: Kentucky Counties of Boyd, Carter, Elliott, Floyd, Greenup, Johnson, Lawrence,
Lewis, Magoffin, Martin, Pike

Ohio Counties of Monroe, Morgan, Noble, Washington

West Virginia - All Counties except : Berkeley, Jefferson

Note: West Virginia include all counties except Berkeley and Jefferson counties.

****Fringe Benefits Required Follow the Occupational Listing****

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support And Clerical Occupations	
01011 - Accounting Clerk I	12.43
01012 - Accounting Clerk II	18.04
01013 - Accounting Clerk III	20.19
01020 - Administrative Assistant	16.51
01040 - Court Reporter	18.99
01051 - Data Entry Operator I	11.12
01052 - Data Entry Operator II	12.18
01060 - Dispatcher, Motor Vehicle	14.02
01070 - Document Preparation Clerk	11.19
01090 - Duplicating Machine Operator	11.19
01111 - General Clerk I	10.56
01112 - General Clerk II	12.02
01113 - General Clerk III	13.50
01120 - Housing Referral Assistant	14.85
01141 - Messenger Courier	9.11
01191 - Order Clerk I	11.17
01192 - Order Clerk II	13.28
01261 - Personnel Assistant (Employment) I	14.65
01262 - Personnel Assistant (Employment) II	16.97
01263 - Personnel Assistant (Employment) III	19.07
01270 - Production Control Clerk	17.47
01280 - Receptionist	9.45
01290 - Rental Clerk	11.99
01300 - Scheduler, Maintenance	11.99
01311 - Secretary I	11.99
01312 - Secretary II	13.41
01313 - Secretary III	14.63
01320 - Service Order Dispatcher	13.19
01410 - Supply Technician	16.51
01420 - Survey Worker	13.41

01531 - Travel Clerk I	11.87
01532 - Travel Clerk II	12.67
01533 - Travel Clerk III	13.51
01611 - Word Processor I	12.30
01612 - Word Processor II	13.82
01613 - Word Processor III	15.44
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer, Fiberglass	15.24
05010 - Automotive Electrician	14.72
05040 - Automotive Glass Installer	14.22
05070 - Automotive Worker	14.22
05110 - Mobile Equipment Servicer	13.17
05130 - Motor Equipment Metal Mechanic	15.24
05160 - Motor Equipment Metal Worker	14.22
05190 - Motor Vehicle Mechanic	15.24
05220 - Motor Vehicle Mechanic Helper	12.61
05250 - Motor Vehicle Upholstery Worker	13.72
05280 - Motor Vehicle Wrecker	14.22
05310 - Painter, Automotive	14.72
05340 - Radiator Repair Specialist	14.22
05370 - Tire Repairer	12.55
05400 - Transmission Repair Specialist	15.25
07000 - Food Preparation And Service Occupations	
07010 - Baker	9.39
07041 - Cook I	8.97
07042 - Cook II	9.70
07070 - Dishwasher	7.16
07130 - Food Service Worker	7.79
07210 - Meat Cutter	10.92
07260 - Waiter/Waitress	8.03
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	14.72
09040 - Furniture Handler	11.58
09080 - Furniture Refinisher	14.72
09090 - Furniture Refinisher Helper	12.62
09110 - Furniture Repairer, Minor	13.71
09130 - Upholsterer	14.72
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	7.89
11060 - Elevator Operator	7.99
11090 - Gardener	10.47
11122 - Housekeeping Aide	8.43
11150 - Janitor	9.38
11210 - Laborer, Grounds Maintenance	8.46
11240 - Maid or Houseman	7.66
11260 - Pruner	8.73
11270 - Tractor Operator	9.68
11330 - Trail Maintenance Worker	8.46
11360 - Window Cleaner	9.43
12000 - Health Occupations	
12010 - Ambulance Driver	10.93
12011 - Breath Alcohol Technician	14.43
12012 - Certified Occupational Therapist Assistant	19.37
12015 - Certified Physical Therapist Assistant	16.91
12020 - Dental Assistant	12.57
12025 - Dental Hygienist	21.28
12030 - EKG Technician	17.00
12035 - Electroneurodiagnostic Technologist	17.00
12040 - Emergency Medical Technician	12.02
12071 - Licensed Practical Nurse I	12.86

12072 - Licensed Practical Nurse II	14.43
12073 - Licensed Practical Nurse III	16.09
12100 - Medical Assistant	10.26
12130 - Medical Laboratory Technician	15.09
12160 - Medical Record Clerk	10.77
12190 - Medical Record Technician	13.54
12195 - Medical Transcriptionist	11.66
12210 - Nuclear Medicine Technologist	27.32
12221 - Nursing Assistant I	8.99
12222 - Nursing Assistant II	10.12
12223 - Nursing Assistant III	11.03
12224 - Nursing Assistant IV	12.38
12235 - Optical Dispenser	14.94
12236 - Optical Technician	11.02
12250 - Pharmacy Technician	13.41
12280 - Phlebotomist	12.38
12305 - Radiologic Technologist	20.10
12311 - Registered Nurse I	19.44
12312 - Registered Nurse II	23.78
12313 - Registered Nurse II, Specialist	23.78
12314 - Registered Nurse III	28.77
12315 - Registered Nurse III, Anesthetist	28.77
12316 - Registered Nurse IV	34.49
12317 - Scheduler (Drug and Alcohol Testing)	17.86
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	14.52
13012 - Exhibits Specialist II	17.99
13013 - Exhibits Specialist III	22.00
13041 - Illustrator I	14.52
13042 - Illustrator II	17.99
13043 - Illustrator III	22.00
13047 - Librarian	19.94
13050 - Library Aide/Clerk	8.42
13054 - Library Information Technology Systems Administrator	18.16
13058 - Library Technician	13.41
13061 - Media Specialist I	12.98
13062 - Media Specialist II	14.51
13063 - Media Specialist III	16.19
13071 - Photographer I	13.62
13072 - Photographer II	15.23
13073 - Photographer III	18.87
13074 - Photographer IV	23.08
13075 - Photographer V	27.93
13110 - Video Teleconference Technician	12.63
14000 - Information Technology Occupations	
14041 - Computer Operator I	13.53
14042 - Computer Operator II	15.13
14043 - Computer Operator III	16.86
14044 - Computer Operator IV	18.74
14045 - Computer Operator V	21.11
14071 - Computer Programmer I (1)	15.53
14072 - Computer Programmer II (1)	19.23
14073 - Computer Programmer III (1)	23.54
14074 - Computer Programmer IV (1)	
14101 - Computer Systems Analyst I (1)	26.43
14102 - Computer Systems Analyst II (1)	
14103 - Computer Systems Analyst III (1)	
14150 - Peripheral Equipment Operator	13.53
14160 - Personal Computer Support Technician	18.74
15000 - Instructional Occupations	

15010 - Aircrew Training Devices Instructor (Non-Rated)	24.08
15020 - Aircrew Training Devices Instructor (Rated)	29.14
15030 - Air Crew Training Devices Instructor (Pilot)	34.54
15050 - Computer Based Training Specialist / Instructor	23.23
15060 - Educational Technologist	22.62
15070 - Flight Instructor (Pilot)	34.54
15080 - Graphic Artist	18.11
15090 - Technical Instructor	17.34
15095 - Technical Instructor/Course Developer	21.22
15110 - Test Proctor	13.98
15120 - Tutor	13.98
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	8.62
16030 - Counter Attendant	8.62
16040 - Dry Cleaner	10.92
16070 - Finisher, Flatwork, Machine	8.62
16090 - Presser, Hand	8.62
16110 - Presser, Machine, Drycleaning	8.62
16130 - Presser, Machine, Shirts	8.62
16160 - Presser, Machine, Wearing Apparel, Laundry	8.62
16190 - Sewing Machine Operator	11.67
16220 - Tailor	12.40
16250 - Washer, Machine	9.33
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	15.25
19040 - Tool And Die Maker	17.40
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	15.30
21030 - Material Coordinator	17.47
21040 - Material Expediter	17.47
21050 - Material Handling Laborer	9.75
21071 - Order Filler	10.71
21080 - Production Line Worker (Food Processing)	15.30
21110 - Shipping Packer	13.73
21130 - Shipping/Receiving Clerk	13.73
21140 - Store Worker I	11.34
21150 - Stock Clerk	15.24
21210 - Tools And Parts Attendant	15.30
21410 - Warehouse Specialist	15.30
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	23.20
23021 - Aircraft Mechanic I	22.05
23022 - Aircraft Mechanic II	23.20
23023 - Aircraft Mechanic III	24.21
23040 - Aircraft Mechanic Helper	17.81
23050 - Aircraft, Painter	20.59
23060 - Aircraft Servicer	19.35
23080 - Aircraft Worker	20.06
23110 - Appliance Mechanic	16.19
23120 - Bicycle Repairer	12.72
23125 - Cable Splicer	23.22
23130 - Carpenter, Maintenance	16.42
23140 - Carpet Layer	15.63
23160 - Electrician, Maintenance	20.01
23181 - Electronics Technician Maintenance I	12.84
23182 - Electronics Technician Maintenance II	20.44
23183 - Electronics Technician Maintenance III	21.44
23260 - Fabric Worker	15.42
23290 - Fire Alarm System Mechanic	17.53
23310 - Fire Extinguisher Repairer	15.15

23311 - Fuel Distribution System Mechanic	19.94
23312 - Fuel Distribution System Operator	15.50
23370 - General Maintenance Worker	15.63
23380 - Ground Support Equipment Mechanic	22.05
23381 - Ground Support Equipment Servicer	19.35
23382 - Ground Support Equipment Worker	20.06
23391 - Gunsmith I	14.34
23392 - Gunsmith II	16.45
23393 - Gunsmith III	18.38
23410 - Heating, Ventilation And Air-Conditioning Mechanic	16.98
23411 - Heating, Ventilation And Air Contdconditioning Mechanic (Research Facility)	
17.75	
23430 - Heavy Equipment Mechanic	17.61
23440 - Heavy Equipment Operator	17.05
23460 - Instrument Mechanic	19.65
23465 - Laboratory/Shelter Mechanic	17.52
23470 - Laborer	9.75
23510 - Locksmith	16.19
23530 - Machinery Maintenance Mechanic	19.62
23550 - Machinist, Maintenance	17.52
23580 - Maintenance Trades Helper	12.94
23591 - Metrology Technician I	19.65
23592 - Metrology Technician II	20.54
23593 - Metrology Technician III	21.23
23640 - Millwright	19.65
23710 - Office Appliance Repairer	17.02
23760 - Painter, Maintenance	17.17
23790 - Pipefitter, Maintenance	20.20
23810 - Plumber, Maintenance	19.50
23820 - Pneudraulic Systems Mechanic	18.38
23850 - Rigger	19.65
23870 - Scale Mechanic	16.45
23890 - Sheet-Metal Worker, Maintenance	18.81
23910 - Small Engine Mechanic	15.62
23931 - Telecommunications Mechanic I	22.31
23932 - Telecommunications Mechanic II	23.10
23950 - Telephone Lineman	22.31
23960 - Welder, Combination, Maintenance	17.70
23965 - Well Driller	17.53
23970 - Woodcraft Worker	18.38
23980 - Woodworker	14.72
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	7.14
24580 - Child Care Center Clerk	8.91
24610 - Chore Aide	7.00
24620 - Family Readiness And Support Services Coordinator	8.74
24630 - Homemaker	9.48
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	19.69
25040 - Sewage Plant Operator	16.85
25070 - Stationary Engineer	19.69
25190 - Ventilation Equipment Tender	14.03
25210 - Water Treatment Plant Operator	16.19
27000 - Protective Service Occupations	
27004 - Alarm Monitor	10.25
27007 - Baggage Inspector	9.08
27008 - Corrections Officer	13.74
27010 - Court Security Officer	15.06
27030 - Detection Dog Handler	10.28
27040 - Detention Officer	13.74

27070 - Firefighter	16.40
27101 - Guard I	9.08
27102 - Guard II	10.28
27131 - Police Officer I	16.15
27132 - Police Officer II	17.97
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	9.41
28042 - Carnival Equipment Repairer	9.85
28043 - Carnival Equipment Worker	7.70
28210 - Gate Attendant/Gate Tender	12.36
28310 - Lifeguard	11.34
28350 - Park Attendant (Aide)	13.66
28510 - Recreation Aide/Health Facility Attendant	10.09
28515 - Recreation Specialist	12.14
28630 - Sports Official	10.41
28690 - Swimming Pool Operator	13.18
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	15.21
29020 - Hatch Tender	15.21
29030 - Line Handler	15.21
29041 - Stevedore I	14.41
29042 - Stevedore II	15.56
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (2)	33.96
30011 - Air Traffic Control Specialist, Station (HFO) (2)	23.42
30012 - Air Traffic Control Specialist, Terminal (HFO) (2)	25.79
30021 - Archeological Technician I	16.95
30022 - Archeological Technician II	18.94
30023 - Archeological Technician III	23.48
30030 - Cartographic Technician	23.90
30040 - Civil Engineering Technician	17.60
30061 - Drafter/CAD Operator I	16.78
30062 - Drafter/CAD Operator II	20.47
30063 - Drafter/CAD Operator III	21.49
30064 - Drafter/CAD Operator IV	22.56
30081 - Engineering Technician I	14.25
30082 - Engineering Technician II	15.99
30083 - Engineering Technician III	19.55
30084 - Engineering Technician IV	23.78
30085 - Engineering Technician V	29.63
30086 - Engineering Technician VI	35.53
30090 - Environmental Technician	17.30
30210 - Laboratory Technician	19.62
30240 - Mathematical Technician	24.49
30361 - Paralegal/Legal Assistant I	16.61
30362 - Paralegal/Legal Assistant II	19.41
30363 - Paralegal/Legal Assistant III	23.76
30364 - Paralegal/Legal Assistant IV	28.75
30390 - Photo-Optics Technician	24.54
30461 - Technical Writer I	18.24
30462 - Technical Writer II	23.31
30463 - Technical Writer III	26.98
30491 - Unexploded Ordnance (UXO) Technician I	21.58
30492 - Unexploded Ordnance (UXO) Technician II	26.11
30493 - Unexploded Ordnance (UXO) Technician III	31.30
30494 - Unexploded (UXO) Safety Escort	21.58
30495 - Unexploded (UXO) Sweep Personnel	21.58
30620 - Weather Observer, Combined Upper Air Or Surface Programs (3)	19.59
30621 - Weather Observer, Senior (3)	21.78
31000 - Transportation/Mobile Equipment Operation Occupations	

31020 - Bus Aide	8.45
31030 - Bus Driver	11.58
31043 - Driver Courier	9.72
31260 - Parking and Lot Attendant	8.02
31290 - Shuttle Bus Driver	10.51
31310 - Taxi Driver	8.48
31361 - Truckdriver, Light	10.49
31362 - Truckdriver, Medium	12.69
31363 - Truckdriver, Heavy	14.43
31364 - Truckdriver, Tractor-Trailer	14.43
99000 - Miscellaneous Occupations	
99030 - Cashier	7.02
99050 - Desk Clerk	7.53
99095 - Embalmer	20.91
99251 - Laboratory Animal Caretaker I	8.25
99252 - Laboratory Animal Caretaker II	8.90
99310 - Mortician	28.15
99410 - Pest Controller	12.69
99510 - Photofinishing Worker	10.09
99710 - Recycling Laborer	11.68
99711 - Recycling Specialist	13.46
99730 - Refuse Collector	10.58
99810 - Sales Clerk	9.93
99820 - School Crossing Guard	10.14
99830 - Survey Party Chief	15.89
99831 - Surveying Aide	9.83
99832 - Surveying Technician	13.49
99840 - Vending Machine Attendant	11.40
99841 - Vending Machine Repairer	12.83
99842 - Vending Machine Repairer Helper	11.40

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.24 per hour or \$129.60 per week or \$561.60 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 8 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)

2) APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is

entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.

3) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C) (vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation) and computes a proposed rate).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour decision to the contractor.
- 6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure

that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

WD 05-2451 (Rev.-7) was first posted on www.wdol.gov on 06/03/2008

REGISTER OF WAGE DETERMINATIONS UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON D.C. 20210

Shirley F. Ebbesen Division of
Director Wage Determinations

Wage Determination No.: 2005-2451
Revision No.: 7
Date Of Revision: 05/29/2008

States: Ohio, Pennsylvania

Area: Ohio Counties of Belmont, Harrison, Jefferson, Tuscarawas
Pennsylvania Counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler,
Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie,
Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean,
Mercer, Potter, Somerset, Venango, Warren, Washington, Westmoreland

Fringe Benefits Required Follow the Occupational Listing

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support And Clerical Occupations	
01011 - Accounting Clerk I	13.33
01012 - Accounting Clerk II	15.72
01013 - Accounting Clerk III	20.33
01020 - Administrative Assistant	21.11
01040 - Court Reporter	17.78
01051 - Data Entry Operator I	11.06
01052 - Data Entry Operator II	13.25
01060 - Dispatcher, Motor Vehicle	15.45
01070 - Document Preparation Clerk	11.66
01090 - Duplicating Machine Operator	11.56
01111 - General Clerk I	10.48
01112 - General Clerk II	13.88
01113 - General Clerk III	15.05
01120 - Housing Referral Assistant	18.30
01141 - Messenger Courier	9.78
01191 - Order Clerk I	13.17
01192 - Order Clerk II	15.74
01261 - Personnel Assistant (Employment) I	14.40
01262 - Personnel Assistant (Employment) II	15.51
01263 - Personnel Assistant (Employment) III	18.17
01270 - Production Control Clerk	18.12
01280 - Receptionist	11.56
01290 - Rental Clerk	14.59
01300 - Scheduler, Maintenance	14.20
01311 - Secretary I	14.18
01312 - Secretary II	16.96
01313 - Secretary III	18.21
01320 - Service Order Dispatcher	15.06
01410 - Supply Technician	21.11
01420 - Survey Worker	14.33
01531 - Travel Clerk I	11.44
01532 - Travel Clerk II	12.28

01533 - Travel Clerk III	13.17
01611 - Word Processor I	12.79
01612 - Word Processor II	15.43
01613 - Word Processor III	16.54
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer, Fiberglass	17.98
05010 - Automotive Electrician	17.31
05040 - Automotive Glass Installer	16.65
05070 - Automotive Worker	16.65
05110 - Mobile Equipment Servicer	15.43
05130 - Motor Equipment Metal Mechanic	17.93
05160 - Motor Equipment Metal Worker	16.65
05190 - Motor Vehicle Mechanic	18.21
05220 - Motor Vehicle Mechanic Helper	14.83
05250 - Motor Vehicle Upholstery Worker	16.04
05280 - Motor Vehicle Wrecker	16.65
05310 - Painter, Automotive	18.53
05340 - Radiator Repair Specialist	16.65
05370 - Tire Repairer	13.96
05400 - Transmission Repair Specialist	17.93
07000 - Food Preparation And Service Occupations	
07010 - Baker	10.98
07041 - Cook I	10.88
07042 - Cook II	12.08
07070 - Dishwasher	8.33
07130 - Food Service Worker	8.61
07210 - Meat Cutter	11.32
07260 - Waiter/Waitress	8.86
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	16.22
09040 - Furniture Handler	12.62
09080 - Furniture Refinisher	16.22
09090 - Furniture Refinisher Helper	13.89
09110 - Furniture Repairer, Minor	15.03
09130 - Upholsterer	16.22
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	9.28
11060 - Elevator Operator	11.02
11090 - Gardener	13.43
11122 - Housekeeping Aide	10.93
11150 - Janitor	12.96
11210 - Laborer, Grounds Maintenance	10.94
11240 - Maid or Houseman	10.20
11260 - Pruner	12.96
11270 - Tractor Operator	12.59
11330 - Trail Maintenance Worker	10.94
11360 - Window Cleaner	13.78
12000 - Health Occupations	
12010 - Ambulance Driver	12.64
12011 - Breath Alcohol Technician	15.88
12012 - Certified Occupational Therapist Assistant	18.84
12015 - Certified Physical Therapist Assistant	17.79
12020 - Dental Assistant	12.80
12025 - Dental Hygienist	19.02
12030 - EKG Technician	20.82
12035 - Electroneurodiagnostic Technologist	20.82
12040 - Emergency Medical Technician	12.64
12071 - Licensed Practical Nurse I	14.14
12072 - Licensed Practical Nurse II	15.88
12073 - Licensed Practical Nurse III	17.76

12100 - Medical Assistant	11.73
12130 - Medical Laboratory Technician	15.64
12160 - Medical Record Clerk	13.16
12190 - Medical Record Technician	16.42
12195 - Medical Transcriptionist	13.22
12210 - Nuclear Medicine Technologist	23.09
12221 - Nursing Assistant I	9.47
12222 - Nursing Assistant II	10.64
12223 - Nursing Assistant III	11.07
12224 - Nursing Assistant IV	12.42
12235 - Optical Dispenser	11.48
12236 - Optical Technician	11.09
12250 - Pharmacy Technician	12.19
12280 - Phlebotomist	12.93
12305 - Radiologic Technologist	19.01
12311 - Registered Nurse I	22.50
12312 - Registered Nurse II	26.10
12313 - Registered Nurse II, Specialist	26.10
12314 - Registered Nurse III	33.10
12315 - Registered Nurse III, Anesthetist	33.10
12316 - Registered Nurse IV	34.88
12317 - Scheduler (Drug and Alcohol Testing)	19.73
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	20.46
13012 - Exhibits Specialist II	26.07
13013 - Exhibits Specialist III	28.16
13041 - Illustrator I	19.11
13042 - Illustrator II	24.36
13043 - Illustrator III	26.32
13047 - Librarian	24.59
13050 - Library Aide/Clerk	10.34
13054 - Library Information Technology Systems Administrator	20.34
13058 - Library Technician	14.60
13061 - Media Specialist I	15.60
13062 - Media Specialist II	17.43
13063 - Media Specialist III	19.41
13071 - Photographer I	14.35
13072 - Photographer II	18.24
13073 - Photographer III	21.49
13074 - Photographer IV	25.11
13075 - Photographer V	30.36
13110 - Video Teleconference Technician	14.06
14000 - Information Technology Occupations	
14041 - Computer Operator I	14.44
14042 - Computer Operator II	15.86
14043 - Computer Operator III	18.84
14044 - Computer Operator IV	20.94
14045 - Computer Operator V	23.18
14071 - Computer Programmer I (1)	20.31
14072 - Computer Programmer II (1)	23.57
14073 - Computer Programmer III (1)	
14074 - Computer Programmer IV (1)	
14101 - Computer Systems Analyst I (1)	
14102 - Computer Systems Analyst II (1)	
14103 - Computer Systems Analyst III (1)	
14150 - Peripheral Equipment Operator	14.44
14160 - Personal Computer Support Technician	20.94
15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	25.09
15020 - Aircrew Training Devices Instructor (Rated)	30.38

15030 - Air Crew Training Devices Instructor (Pilot)	34.24
15050 - Computer Based Training Specialist / Instructor	27.62
15060 - Educational Technologist	29.84
15070 - Flight Instructor (Pilot)	34.24
15080 - Graphic Artist	20.56
15090 - Technical Instructor	18.56
15095 - Technical Instructor/Course Developer	23.00
15110 - Test Proctor	16.96
15120 - Tutor	16.96
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	8.54
16030 - Counter Attendant	8.54
16040 - Dry Cleaner	10.64
16070 - Finisher, Flatwork, Machine	8.54
16090 - Presser, Hand	8.54
16110 - Presser, Machine, Drycleaning	8.54
16130 - Presser, Machine, Shirts	8.54
16160 - Presser, Machine, Wearing Apparel, Laundry	8.54
16190 - Sewing Machine Operator	11.35
16220 - Tailor	12.05
16250 - Washer, Machine	9.24
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	16.21
19040 - Tool And Die Maker	22.76
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	15.61
21030 - Material Coordinator	19.20
21040 - Material Expediter	19.20
21050 - Material Handling Laborer	18.10
21071 - Order Filler	13.89
21080 - Production Line Worker (Food Processing)	15.61
21110 - Shipping Packer	13.72
21130 - Shipping/Receiving Clerk	13.72
21140 - Store Worker I	12.47
21150 - Stock Clerk	15.81
21210 - Tools And Parts Attendant	15.61
21410 - Warehouse Specialist	15.61
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	21.06
23021 - Aircraft Mechanic I	20.33
23022 - Aircraft Mechanic II	21.06
23023 - Aircraft Mechanic III	22.65
23040 - Aircraft Mechanic Helper	16.07
23050 - Aircraft, Painter	19.92
23060 - Aircraft Servicer	17.84
23080 - Aircraft Worker	18.86
23110 - Appliance Mechanic	19.92
23120 - Bicycle Repairer	13.96
23125 - Cable Splicer	24.52
23130 - Carpenter, Maintenance	20.21
23140 - Carpet Layer	17.94
23160 - Electrician, Maintenance	22.81
23181 - Electronics Technician Maintenance I	19.07
23182 - Electronics Technician Maintenance II	22.49
23183 - Electronics Technician Maintenance III	24.60
23260 - Fabric Worker	17.38
23290 - Fire Alarm System Mechanic	21.02
23310 - Fire Extinguisher Repairer	16.39
23311 - Fuel Distribution System Mechanic	21.50
23312 - Fuel Distribution System Operator	18.49

23370 - General Maintenance Worker	15.60
23380 - Ground Support Equipment Mechanic	20.33
23381 - Ground Support Equipment Servicer	17.39
23382 - Ground Support Equipment Worker	18.40
23391 - Gunsmith I	16.39
23392 - Gunsmith II	18.40
23393 - Gunsmith III	20.33
23410 - Heating, Ventilation And Air-Conditioning Mechanic	18.95
23411 - Heating, Ventilation And Air Contdditioning Mechanic (Research Facility)	
19.69	
23430 - Heavy Equipment Mechanic	18.54
23440 - Heavy Equipment Operator	20.60
23460 - Instrument Mechanic	20.56
23465 - Laboratory/Shelter Mechanic	19.42
23470 - Laborer	14.78
23510 - Locksmith	18.41
23530 - Machinery Maintenance Mechanic	21.00
23550 - Machinist, Maintenance	18.41
23580 - Maintenance Trades Helper	14.94
23591 - Metrology Technician I	20.56
23592 - Metrology Technician II	21.40
23593 - Metrology Technician III	22.35
23640 - Millwright	20.86
23710 - Office Appliance Repairer	18.41
23760 - Painter, Maintenance	19.35
23790 - Pipefitter, Maintenance	25.44
23810 - Plumber, Maintenance	20.86
23820 - Pneudraulic Systems Mechanic	20.33
23850 - Rigger	20.33
23870 - Scale Mechanic	18.40
23890 - Sheet-Metal Worker, Maintenance	22.92
23910 - Small Engine Mechanic	17.11
23931 - Telecommunications Mechanic I	23.24
23932 - Telecommunications Mechanic II	24.07
23950 - Telephone Lineman	22.87
23960 - Welder, Combination, Maintenance	17.08
23965 - Well Driller	16.85
23970 - Woodcraft Worker	20.33
23980 - Woodworker	14.45
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	10.58
24580 - Child Care Center Clerk	11.80
24610 - Chore Aide	9.23
24620 - Family Readiness And Support Services Coordinator	11.57
24630 - Homemaker	12.26
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	23.07
25040 - Sewage Plant Operator	18.58
25070 - Stationary Engineer	23.07
25190 - Ventilation Equipment Tender	16.11
25210 - Water Treatment Plant Operator	18.58
27000 - Protective Service Occupations	
27004 - Alarm Monitor	13.92
27007 - Baggage Inspector	10.08
27008 - Corrections Officer	20.06
27010 - Court Security Officer	20.55
27030 - Detection Dog Handler	14.84
27040 - Detention Officer	20.06
27070 - Firefighter	20.55
27101 - Guard I	10.08

27102 - Guard II	14.84
27131 - Police Officer I	24.82
27132 - Police Officer II	26.93
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	9.78
28042 - Carnival Equipment Repairer	10.16
28043 - Carnival Equipment Worker	8.33
28210 - Gate Attendant/Gate Tender	12.53
28310 - Lifeguard	10.94
28350 - Park Attendant (Aide)	14.02
28510 - Recreation Aide/Health Facility Attendant	10.23
28515 - Recreation Specialist	13.87
28630 - Sports Official	11.16
28690 - Swimming Pool Operator	18.27
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	18.98
29020 - Hatch Tender	18.98
29030 - Line Handler	18.98
29041 - Stevedore I	17.94
29042 - Stevedore II	19.37
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (2)	33.41
30011 - Air Traffic Control Specialist, Station (HFO) (2)	23.04
30012 - Air Traffic Control Specialist, Terminal (HFO) (2)	25.38
30021 - Archeological Technician I	14.84
30022 - Archeological Technician II	16.62
30023 - Archeological Technician III	20.55
30030 - Cartographic Technician	24.59
30040 - Civil Engineering Technician	21.90
30061 - Drafter/CAD Operator I	16.27
30062 - Drafter/CAD Operator II	19.55
30063 - Drafter/CAD Operator III	20.55
30064 - Drafter/CAD Operator IV	25.09
30081 - Engineering Technician I	16.06
30082 - Engineering Technician II	18.06
30083 - Engineering Technician III	20.98
30084 - Engineering Technician IV	24.00
30085 - Engineering Technician V	27.48
30086 - Engineering Technician VI	33.22
30090 - Environmental Technician	21.09
30210 - Laboratory Technician	20.26
30240 - Mathematical Technician	25.09
30361 - Paralegal/Legal Assistant I	17.49
30362 - Paralegal/Legal Assistant II	22.76
30363 - Paralegal/Legal Assistant III	26.95
30364 - Paralegal/Legal Assistant IV	27.74
30390 - Photo-Optics Technician	26.70
30461 - Technical Writer I	21.84
30462 - Technical Writer II	24.25
30463 - Technical Writer III	26.14
30491 - Unexploded Ordnance (UXO) Technician I	21.24
30492 - Unexploded Ordnance (UXO) Technician II	25.70
30493 - Unexploded Ordnance (UXO) Technician III	30.80
30494 - Unexploded (UXO) Safety Escort	21.24
30495 - Unexploded (UXO) Sweep Personnel	21.24
30620 - Weather Observer, Combined Upper Air Or Surface Programs (2)	20.55
30621 - Weather Observer, Senior (2)	22.14
31000 - Transportation/Mobile Equipment Operation Occupations	
31020 - Bus Aide	13.37
31030 - Bus Driver	18.40

31043 - Driver Courier	13.74
31260 - Parking and Lot Attendant	9.10
31290 - Shuttle Bus Driver	14.65
31310 - Taxi Driver	10.92
31361 - Truckdriver, Light	14.65
31362 - Truckdriver, Medium	17.07
31363 - Truckdriver, Heavy	18.69
31364 - Truckdriver, Tractor-Trailer	18.69
99000 - Miscellaneous Occupations	
99030 - Cashier	7.74
99050 - Desk Clerk	8.42
99095 - Embalmer	21.24
99251 - Laboratory Animal Caretaker I	10.80
99252 - Laboratory Animal Caretaker II	11.34
99310 - Mortician	23.98
99410 - Pest Controller	15.49
99510 - Photofinishing Worker	10.94
99710 - Recycling Laborer	17.23
99711 - Recycling Specialist	19.85
99730 - Refuse Collector	15.92
99810 - Sales Clerk	10.02
99820 - School Crossing Guard	9.09
99830 - Survey Party Chief	15.66
99831 - Surveying Aide	9.33
99832 - Surveying Technician	14.23
99840 - Vending Machine Attendant	13.41
99841 - Vending Machine Repairer	15.10
99842 - Vending Machine Repairer Helper	13.41

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.24 per hour or \$129.60 per week or \$561.60 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 8 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

1) Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541.400) wage

rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am.

If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract

(either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4 6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation) and computes a proposed rate).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the

contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

WD 05-2439 (Rev.-7) was first posted on www.wdol.gov on 06/17/2008

REGISTER OF WAGE DETERMINATIONS UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON D.C. 20210

Shirley F. Ebbesen Division of
Director Wage Determinations

Wage Determination No.: 2005-2439
Revision No.: 7
Date Of Revision: 06/09/2008

State: Oregon

Area: Oregon Counties of Benton, Coos, Crook, Curry, Deschutes, Douglas, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn

Fringe Benefits Required Follow the Occupational Listing

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support And Clerical Occupations	
01011 - Accounting Clerk I	11.76
01012 - Accounting Clerk II	13.43
01013 - Accounting Clerk III	15.02
01020 - Administrative Assistant	18.57
01040 - Court Reporter	14.99
01051 - Data Entry Operator I	11.01
01052 - Data Entry Operator II	12.08
01060 - Dispatcher, Motor Vehicle	16.58
01070 - Document Preparation Clerk	11.93
01090 - Duplicating Machine Operator	11.93
01111 - General Clerk I	11.10
01112 - General Clerk II	12.45
01113 - General Clerk III	13.98
01120 - Housing Referral Assistant	16.70
01141 - Messenger Courier	11.96
01191 - Order Clerk I	12.96
01192 - Order Clerk II	14.27
01261 - Personnel Assistant (Employment) I	14.55
01262 - Personnel Assistant (Employment) II	15.93
01263 - Personnel Assistant (Employment) III	17.43
01270 - Production Control Clerk	17.89
01280 - Receptionist	11.91
01290 - Rental Clerk	11.70
01300 - Scheduler, Maintenance	13.40
01311 - Secretary I	13.40
01312 - Secretary II	14.99
01313 - Secretary III	16.70
01320 - Service Order Dispatcher	14.77
01410 - Supply Technician	18.57
01420 - Survey Worker	12.77
01531 - Travel Clerk I	12.58
01532 - Travel Clerk II	13.62
01533 - Travel Clerk III	14.65
01611 - Word Processor I	12.49
01612 - Word Processor II	14.02

01613 - Word Processor III	15.68
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer, Fiberglass	22.66
05010 - Automotive Electrician	16.52
05040 - Automotive Glass Installer	15.39
05070 - Automotive Worker	15.75
05110 - Mobile Equipment Servicer	13.88
05130 - Motor Equipment Metal Mechanic	17.28
05160 - Motor Equipment Metal Worker	15.75
05190 - Motor Vehicle Mechanic	17.28
05220 - Motor Vehicle Mechanic Helper	13.08
05250 - Motor Vehicle Upholstery Worker	14.97
05280 - Motor Vehicle Wrecker	15.75
05310 - Painter, Automotive	17.76
05340 - Radiator Repair Specialist	15.75
05370 - Tire Repairer	12.48
05400 - Transmission Repair Specialist	17.28
07000 - Food Preparation And Service Occupations	
07010 - Baker	12.35
07041 - Cook I	10.81
07042 - Cook II	12.23
07070 - Dishwasher	8.44
07130 - Food Service Worker	9.16
07210 - Meat Cutter	14.77
07260 - Waiter/Waitress	9.07
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	13.76
09040 - Furniture Handler	10.59
09080 - Furniture Refinisher	13.76
09090 - Furniture Refinisher Helper	11.14
09110 - Furniture Repairer, Minor	12.48
09130 - Upholsterer	13.76
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	9.85
11060 - Elevator Operator	10.31
11090 - Gardener	13.75
11122 - Housekeeping Aide	10.03
11150 - Janitor	10.80
11210 - Laborer, Grounds Maintenance	11.48
11240 - Maid or Houseman	8.90
11260 - Pruner	12.52
11270 - Tractor Operator	13.15
11330 - Trail Maintenance Worker	11.48
11360 - Window Cleaner	11.61
12000 - Health Occupations	
12010 - Ambulance Driver	16.76
12011 - Breath Alcohol Technician	16.03
12012 - Certified Occupational Therapist Assistant	22.00
12015 - Certified Physical Therapist Assistant	22.00
12020 - Dental Assistant	16.42
12025 - Dental Hygienist	36.10
12030 - EKG Technician	24.30
12035 - Electroneurodiagnostic Technologist	24.30
12040 - Emergency Medical Technician	16.76
12071 - Licensed Practical Nurse I	13.94
12072 - Licensed Practical Nurse II	15.64
12073 - Licensed Practical Nurse III	17.88
12100 - Medical Assistant	14.59
12130 - Medical Laboratory Technician	15.10
12160 - Medical Record Clerk	13.59

12190 - Medical Record Technician	15.55
12195 - Medical Transcriptionist	15.37
12210 - Nuclear Medicine Technologist	34.15
12221 - Nursing Assistant I	9.12
12222 - Nursing Assistant II	10.26
12223 - Nursing Assistant III	11.20
12224 - Nursing Assistant IV	12.57
12235 - Optical Dispenser	13.87
12236 - Optical Technician	13.04
12250 - Pharmacy Technician	13.88
12280 - Phlebotomist	13.59
12305 - Radiologic Technologist	24.86
12311 - Registered Nurse I	19.86
12312 - Registered Nurse II	24.30
12313 - Registered Nurse II, Specialist	24.30
12314 - Registered Nurse III	29.40
12315 - Registered Nurse III, Anesthetist	29.40
12316 - Registered Nurse IV	35.24
12317 - Scheduler (Drug and Alcohol Testing)	19.86
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	18.27
13012 - Exhibits Specialist II	22.63
13013 - Exhibits Specialist III	27.69
13041 - Illustrator I	18.27
13042 - Illustrator II	22.63
13043 - Illustrator III	27.69
13047 - Librarian	25.07
13050 - Library Aide/Clerk	13.68
13054 - Library Information Technology Systems Administrator	22.63
13058 - Library Technician	16.92
13061 - Media Specialist I	16.32
13062 - Media Specialist II	18.27
13063 - Media Specialist III	20.37
13071 - Photographer I	16.33
13072 - Photographer II	18.27
13073 - Photographer III	22.63
13074 - Photographer IV	27.04
13075 - Photographer V	32.74
13110 - Video Teleconference Technician	13.35
14000 - Information Technology Occupations	
14041 - Computer Operator I	14.41
14042 - Computer Operator II	16.10
14043 - Computer Operator III	17.96
14044 - Computer Operator IV	19.96
14045 - Computer Operator V	22.10
14071 - Computer Programmer I (1)	17.79
14072 - Computer Programmer II (1)	22.52
14073 - Computer Programmer III (1)	26.97
14074 - Computer Programmer IV (1)	27.62
14101 - Computer Systems Analyst I (1)	25.80
14102 - Computer Systems Analyst II (1)	27.62
14103 - Computer Systems Analyst III (1)	27.62
14150 - Peripheral Equipment Operator	14.41
14160 - Personal Computer Support Technician	25.15
15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	25.34
15020 - Aircrew Training Devices Instructor (Rated)	28.63
15030 - Air Crew Training Devices Instructor (Pilot)	34.32
15050 - Computer Based Training Specialist / Instructor	23.54
15060 - Educational Technologist	32.18

15070 - Flight Instructor (Pilot)	34.32
15080 - Graphic Artist	20.58
15090 - Technical Instructor	15.81
15095 - Technical Instructor/Course Developer	22.33
15110 - Test Proctor	14.18
15120 - Tutor	14.18
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	9.03
16030 - Counter Attendant	9.03
16040 - Dry Cleaner	11.70
16070 - Finisher, Flatwork, Machine	9.03
16090 - Presser, Hand	9.03
16110 - Presser, Machine, Drycleaning	9.03
16130 - Presser, Machine, Shirts	9.03
16160 - Presser, Machine, Wearing Apparel, Laundry	9.03
16190 - Sewing Machine Operator	12.58
16220 - Tailor	13.470
16250 - Washer, Machine	9.67
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	16.23
19040 - Tool And Die Maker	20.83
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	14.67
21030 - Material Coordinator	17.89
21040 - Material Expediter	17.89
21050 - Material Handling Laborer	12.69
21071 - Order Filler	12.26
21080 - Production Line Worker (Food Processing)	14.67
21110 - Shipping Packer	12.45
21130 - Shipping/Receiving Clerk	12.45
21140 - Store Worker I	11.81
21150 - Stock Clerk	15.32
21210 - Tools And Parts Attendant	14.67
21410 - Warehouse Specialist	14.67
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	22.90
23021 - Aircraft Mechanic I	21.81
23022 - Aircraft Mechanic II	22.90
23023 - Aircraft Mechanic III	24.05
23040 - Aircraft Mechanic Helper	15.62
23050 - Aircraft, Painter	19.91
23060 - Aircraft Servicer	18.91
23080 - Aircraft Worker	19.54
23110 - Appliance Mechanic	15.36
23120 - Bicycle Repairer	11.43
23125 - Cable Splicer	21.04
23130 - Carpenter, Maintenance	19.14
23140 - Carpet Layer	17.77
23160 - Electrician, Maintenance	24.90
23181 - Electronics Technician Maintenance I	21.18
23182 - Electronics Technician Maintenance II	23.23
23183 - Electronics Technician Maintenance III	24.32
23260 - Fabric Worker	16.74
23290 - Fire Alarm System Mechanic	23.52
23310 - Fire Extinguisher Repairer	15.71
23311 - Fuel Distribution System Mechanic	19.84
23312 - Fuel Distribution System Operator	15.71
23370 - General Maintenance Worker	15.82
23380 - Ground Support Equipment Mechanic	21.81
23381 - Ground Support Equipment Servicer	18.91

23382 - Ground Support Equipment Worker	19.54
23391 - Gunsmith I	15.71
23392 - Gunsmith II	17.77
23393 - Gunsmith III	19.84
23410 - Heating, Ventilation And Air-Conditioning Mechanic	19.77
23411 - Heating, Ventilation And Air Condtitioning Mechanic (Research Facility)	
20.79	
23430 - Heavy Equipment Mechanic	21.59
23440 - Heavy Equipment Operator	19.78
23460 - Instrument Mechanic	19.84
23465 - Laboratory/Shelter Mechanic	18.80
23470 - Laborer	11.45
23510 - Locksmith	18.80
23530 - Machinery Maintenance Mechanic	20.55
23550 - Machinist, Maintenance	18.10
23580 - Maintenance Trades Helper	12.25
23591 - Metrology Technician I	19.84
23592 - Metrology Technician II	20.86
23593 - Metrology Technician III	21.90
23640 - Millwright	21.04
23710 - Office Appliance Repairer	18.09
23760 - Painter, Maintenance	15.28
23790 - Pipefitter, Maintenance	23.14
23810 - Plumber, Maintenance	21.56
23820 - Pneudraulic Systems Mechanic	19.84
23850 - Rigger	19.84
23870 - Scale Mechanic	17.77
23890 - Sheet-Metal Worker, Maintenance	21.90
23910 - Small Engine Mechanic	17.77
23931 - Telecommunications Mechanic I	24.09
23932 - Telecommunications Mechanic II	25.34
23950 - Telephone Lineman	19.91
23960 - Welder, Combination, Maintenance	14.44
23965 - Well Driller	19.84
23970 - Woodcraft Worker	19.84
23980 - Woodworker	16.18
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	10.22
24580 - Child Care Center Clerk	12.74
24610 - Chore Aide	10.01
24620 - Family Readiness And Support Services Coordinator	13.45
24630 - Homemaker	16.36
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	19.84
25040 - Sewage Plant Operator	20.07
25070 - Stationary Engineer	19.84
25190 - Ventilation Equipment Tender	14.68
25210 - Water Treatment Plant Operator	20.07
27000 - Protective Service Occupations	
27004 - Alarm Monitor	18.41
27007 - Baggage Inspector	10.48
27008 - Corrections Officer	20.56
27010 - Court Security Officer	20.56
27030 - Detection Dog Handler	15.86
27040 - Detention Officer	20.56
27070 - Firefighter	20.00
27101 - Guard I	10.48
27102 - Guard II	15.86
27131 - Police Officer I	24.72
27132 - Police Officer II	27.46

28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	12.41
28042 - Carnival Equipment Repairer	13.19
28043 - Carnival Equipment Worker	10.12
28210 - Gate Attendant/Gate Tender	12.73
28310 - Lifeguard	10.82
28350 - Park Attendant (Aide)	14.24
28510 - Recreation Aide/Health Facility Attendant	11.10
28515 - Recreation Specialist	15.59
28630 - Sports Official	11.34
28690 - Swimming Pool Operator	18.73
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	17.77
29020 - Hatch Tender	17.77
29030 - Line Handler	17.77
29041 - Stevedore I	18.91
29042 - Stevedore II	21.61
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (2)	33.96
30011 - Air Traffic Control Specialist, Station (HFO) (2)	23.42
30012 - Air Traffic Control Specialist, Terminal (HFO) (2)	25.79
30021 - Archeological Technician I	15.98
30022 - Archeological Technician II	17.91
30023 - Archeological Technician III	22.15
30030 - Cartographic Technician	21.51
30040 - Civil Engineering Technician	23.84
30061 - Drafter/CAD Operator I	14.94
30062 - Drafter/CAD Operator II	17.02
30063 - Drafter/CAD Operator III	18.98
30064 - Drafter/CAD Operator IV	23.35
30081 - Engineering Technician I	15.19
30082 - Engineering Technician II	17.75
30083 - Engineering Technician III	19.86
30084 - Engineering Technician IV	24.60
30085 - Engineering Technician V	30.09
30086 - Engineering Technician VI	36.41
30090 - Environmental Technician	21.08
30210 - Laboratory Technician	19.78
30240 - Mathematical Technician	21.08
30361 - Paralegal/Legal Assistant I	17.43
30362 - Paralegal/Legal Assistant II	21.59
30363 - Paralegal/Legal Assistant III	26.41
30364 - Paralegal/Legal Assistant IV	31.96
30390 - Photo-Optics Technician	21.08
30461 - Technical Writer I	15.67
30462 - Technical Writer II	19.15
30463 - Technical Writer III	23.18
30491 - Unexploded Ordnance (UXO) Technician I	21.58
30492 - Unexploded Ordnance (UXO) Technician II	26.11
30493 - Unexploded Ordnance (UXO) Technician III	31.30
30494 - Unexploded (UXO) Safety Escort	21.58
30495 - Unexploded (UXO) Sweep Personnel	21.58
30620 - Weather Observer, Combined Upper Air Or Surface Programs (2)	18.98
30621 - Weather Observer, Senior (2)	21.08
31000 - Transportation/Mobile Equipment Operation Occupations	
31020 - Bus Aide	10.75
31030 - Bus Driver	14.27
31043 - Driver Courier	12.44
31260 - Parking and Lot Attendant	9.88
31290 - Shuttle Bus Driver	13.32

31310 - Taxi Driver	11.52
31361 - Truckdriver, Light	13.32
31362 - Truckdriver, Medium	16.83
31363 - Truckdriver, Heavy	15.15
31364 - Truckdriver, Tractor-Trailer	15.15
99000 - Miscellaneous Occupations	
99030 - Cashier	9.81
99050 - Desk Clerk	10.22
99095 - Embalmer	21.58
99251 - Laboratory Animal Caretaker I	9.69
99252 - Laboratory Animal Caretaker II	10.75
99310 - Mortician	21.58
99410 - Pest Controller	16.27
99510 - Photofinishing Worker	11.34
99710 - Recycling Laborer	12.08
99711 - Recycling Specialist	14.06
99730 - Refuse Collector	13.00
99810 - Sales Clerk	12.67
99820 - School Crossing Guard	11.28
99830 - Survey Party Chief	21.52
99831 - Surveying Aide	13.52
99832 - Surveying Technician	18.40
99840 - Vending Machine Attendant	16.47
99841 - Vending Machine Repairer	19.94
99842 - Vending Machine Repairer Helper	16.47

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VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

1) Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541.400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates

that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordinance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an

employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C) (vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

1) When preparing the bid, the contractor identifies the need for a conformed occupation) and computes a proposed rate).

2) After contract award, the contractor prepares a written report listing in order proposed classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour decision to the contractor.
- 6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

REGISTER OF WAGE DETERMINATION UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary
of Labor

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON D.C. 20210

William W. Gross Division of
Director Wage Determinations

Wage Determination No.: CBA-2007-1011
Revision No.: 1
Date Of Last Revision: 1/19/2007

State: West Virginia

Area: Monongalia

Employed on National Energy Technology Laboratory, Department of Energy contract for Research and Development Support Services.

Collective Bargaining Agreement between contractor: Parsons RDS Inc., and union: United Mine Workers of America Local 1717, effective 1/1/2006 through 12/31/2008 and amended on 1/1/2006.

In accordance with Section 2(a) and 4(c) of the Service Contract Act, as amended, employees employed by the contractor(s) in performing services covered by the Collective Bargaining Agreement (s) are to be paid wage rates and fringe benefits set forth in the current collective bargaining agreement and modified extension agreement(s).

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

**PARSONS RDS, INC. (PRDS)
(Morgantown Site)**

AND THE

UNITED MINE WORKERS OF AMERICA

Local 1717

January 1, 2006 THROUGH DECEMBER 31, 2008

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>PAGE</u>
I Purpose	3
II Scope and Coverage	3
III Representation	4
IV General Wage Provisions	6
V Grievance Procedure	7
VI Disciplinary Program and Discharge	9
VII Discharge/Arbitration	10
VIII Hours and Overtime	10
IX Seniority	14
X Holidays	17
XI Personal Leave	18
XII Leaves of Absence	19
XIII Management's Rights	20
XIV Periodic Conferences	21
XV Bulletin Boards	21
XVI Safety	21
XVII New Equipment	22
XVIII Successorship	22
XIX No Strike No Lockout	22
XX Temporary/Part-time Employees	22
XXI Continuance of Employer Provided Apparel and Tools	23
XXII Health Benefits	23
XXIII Dental Plan	24
XXIV Schedule of other Benefits	24
XXV Term of Agreement	26
Appendix A	27
Appendix B	28
Appendix C	43

ARTICLE I – PURPOSE

1. It is the intent and purpose of Parsons RDS Inc. (“PRDS” or the “Company”) and the Union to establish, through this Agreement, the wages, hours of work, and conditions of employment about which the Company and the Union bargained for the Employees of the Company in the unit defined herein; to provide a procedure for processing disputes between the Company and the Union as to the interpretation and application of the provisions of this Agreement; and generally to govern the relationship between the Company and the Union and its members.
2. The Union recognizes the necessity to achieve efficiency in production and acknowledges that it is the further purpose of this Agreement to prevent interruptions of work and interference with the efficient operation of the Company’s business. It is the intent and purpose of the parties to promote harmony between the Company, its Employees, and the Union for the efficient and successful operation of the Company’s contract with the government so that the Employees and the Company may mutually benefit.
3. Except as specified in this Agreement, the Union and the Employees it represents are not waving rights which exist under the National Labor Relations Act to bargain over Employees’ wages, hours and working conditions. Nor do the Union and the Employees it represents waive any right to challenge any governmental action that would dictate a change in a term and condition of employment provided for under this Agreement.
4. The Company and the Union mutually agree not to discriminate in any way against any Employee with respect to hiring, compensation and terms or conditions of employment because of applicable laws relating to the disabled and Vietnam-era Veterans. Neither the Company nor the Union shall discriminate against any Employee on the basis of race, creed, national origin, gender, age, and political activity or otherwise.

ARTICLE II - SCOPE AND COVERAGE

1. The Company hereby recognizes the Union as the exclusive bargaining representative for the purpose of bargaining collectively as required by Section 8D of the NLRA with respect to wages, hours and other conditions of employment, for the Company’s Employees regularly assigned to the following bargaining unit, all full-time and regular part-time Engineering Technicians I, II, III, IV and V, employed by the Employer at its Morgantown, WV and Pittsburgh, PA Facility on the Research Facility Operations Contract or any successor contracts.
2. Managers and Supervisors shall not perform bargaining unit work except in cases of emergency or Employee training/instruction.

ARTICLE III - REPRESENTATION

Section 1 - Representative

The Representative of the Union shall have access to the shops and office of PRDS at NETL for the purposes of adjusting disputes, investigating working conditions, and ascertaining that the Agreement is being adhered to, providing there is no interruption of the Company's business and providing further that (a) the Union Representative notifies the Human Resources Representative in advance of any visit and (b) prior to entering any facilities under the control of the Company, the visiting representative reports to the Human Resources Office or the Operational Manager's Office in their absence.

Section 2 - Shop Stewards

The Company recognizes the right of the Union to designate one (1) Steward and one (1) Alternate.

- (a) The authority of the Steward so designated by the Union shall be limited to, and shall not exceed, the following duties and activities:
 - (1) The investigation and presentation of grievances in accordance with the provisions of this collective bargaining Agreement.
 - (2) The transmission of such messages and information as shall originate with, and are authorized by the Union or its officers.

Section 3 - Scope of Stewards' Union Activities

The Stewards' Union activities on Company time shall fall within the scope of the following functions:

- (a) To investigate a complaint or grievance and to present a complaint or grievance to an Employee's immediate manager in an attempt to settle the matter for the Employee or group of Employees who may be similarly affected.
- (b) To meet by appointment with an appropriate manager or other designated representative of the Company, when necessary, to adjust grievances in accordance with the Grievance Procedure of the Agreement.
- (c) The Steward shall be allowed to perform these duties during the Steward's working hours without loss of compensation. The performance of these duties shall be limited to a reasonable amount of time per shift.
- (d) The duties specified above shall not relieve the Steward of his/her duties, and obligations as an Employee of the Company, and he/she shall continue to be subject to all rules, regulations and procedures applicable to other Employees. The Steward shall notify his/her immediate manager before leaving the work area to conduct Union business.

Section 4 - Checkoff

The membership dues, including initiation fees, and assessments of the United Mine Workers of America and its various subdivisions, credit, voluntary COMPAC contributions and other voluntary deductions, the Union-sponsored group auto insurance, as authorized and approved by the International Union, United Mine Workers of America, shall be checked off the wages of the Employees by the Employers covered by this contract and shall be remitted by the Employers to the properly designated officers of the Union for distribution to its various branches. Such remittance shall be made within 30 days of the date such amount has been checked off. The Employer shall also submit an itemized statement showing the name of each Employee, his/her Social Security number, hours worked, and the amount checked off for dues, initiation fees, and assessments. Such itemized statement shall be made within 60 days of the date the check-off has been made, and shall include a list of Employees from whom dues, initiation fees and assessments have not been collected.

In order that this section may become effective and operate within the limitations of the Labor-Management Relations Act of 1947, the Union hereby agrees to furnish, with all reasonable dispatch to the respective Employers, and the Employers agree to aid, assist and cooperate in obtaining, written authorizations from each Employee so employed. Upon the presentation to the Employers of such authorizations in such reasonable form as time and circumstances may allow, said Employers shall make deductions so authorized and deliver the same to the designated District officer of the Union or to such authorized representative as may be designated by the Union.

Section 5 - Notification

The Union shall notify the Company of the amount of dues to be withheld by the Company, and shall advise the Company in writing at least two (2) months prior to any change in the amount to be withheld.

Section 6 - Membership

It is agreed that all Employees coming under the terms of this Agreement shall be required to make application to, and become members of, the Union within thirty (30) days of their employment. In the event an Employee does not become a member of the Union within the time frame prescribed above, the Union will approach management and request that the Employee be terminated from any employment which is covered under this Agreement. The Union agrees to hold the Company harmless from any action that may come about as a result of the application of this section.

ARTICLE IV - GENERAL WAGE PROVISIONS

Section 1 - Wage Rates

The hourly rates for Employees covered by this Agreement shall be as set forth in Exhibit "A". Wages shall be paid bi-weekly.

Section 2 - Shift Differentials

The Company shall pay a shift differential of 5% for the second shift and 7% for the third shift.

Section 3 - Out of Classification Work

When a qualified Employee is specifically assigned to and works independently for a period of three (3) hours or more in a higher job classification, the Employee will receive the rate of the higher classification for the duration of his/her performance of the job.

Section 4 - Temporary Assignments

Every reasonable effort shall be made to keep an Employee at work on the job duties normally and customarily a part of his regular job.

Section 5 - Schedule Changes

An Employee's schedule shall not be changed for the explicit purpose of avoiding overtime.

Section 6 - Tuition Refund

Tuition refund will be provided in accordance with PRDS's corporate policy at the time of this Agreement.

Section 7 - Educational Assistance

The Company agrees to provide reimbursement of lost wages and expenses for Employees attending and successfully completing courses offered by the Union and with prior approval by Company (e.g. Safety programs, labor management cooperative programs, etc.).

ARTICLE V - GRIEVANCE PROCEDURE

Section 1. All grievances that may arise will be handled in the following manner. Any written grievance must be filed within five (5) working days of the event given rise to the grievance. The five (5) days shall be considered from the time the grievant should have reasonably known of the grievance. In cases involving dismissals for cause, the grievance may be instituted at step three. In all steps, the grievant shall have the right to be present and at his/her request be accompanied by his/her Union representative.

- Step 1** Prior to processing any written grievance, any Employee who believes he has a grievance must discuss it with his immediate manager, with the option of having his steward present. If the Employee is dissatisfied with the answer given by his manager or no answer is given within five (5) normal working days, Step 2 will be followed.
- Step 2** The Employee and his steward shall present to the Human Resources Representative a written grievance form which has been approved by the Union and the Company stating what the grievance is and the remedy sought. If the Human Resource representative's decision is not acceptable, or is not given within five (5) normal workdays, Step 3 will be followed.
- Step 3** The grievance shall be forwarded by the Union steward to the Operations Manager or his designated representative within five (5) normal workdays after the Human Resource Representative's unacceptable written decision, or failure to give a decision. The Operations Manager shall meet with the appropriate district representative or his designated representative within five (5) days of receipt of the grievance. If the Operation's Manager's decision is not acceptable or is not given within five (5) normal workdays, Step 4 will be followed.
- Step 4** The Union may, no later than five (5) working days after receipt of the Company's decision in Step 3 submit the matter to arbitration by requesting that the Federal Mediation and Conciliation Service submit a list of five (5) names of arbitrators, from which the Company and the Union shall choose an impartial arbitrator to decide the matter. Following receipt of the list of names of arbitrators the parties shall then alternately strike the names from the panel and the name remaining shall be the Arbitrator in the case. The determination of which Party is to strike first shall be determined by a coin flip. Striking shall take place within seven (7) days of receipt of the arbitrators list.

Section 2

In arbitration proceedings, the expense of the impartial Arbitrator shall be shared by both parties. The parties will be responsible for paying their own representatives and witnesses.

Section 3

All arbitration hearings shall be held at a mutually agreed upon neutral location with the Company and the Union agreeing to equally share expenses incurred in the hearing room.

Section 4

The findings of the arbitrator shall be final and binding on all parties.

Section 5

All time limits stated in this article shall be treated as jurisdictional in nature and the failure to follow any of the set times limits shall result in the grievance being void and waived and the matter shall end without resort to arbitration. A normal workday is defined as any day on which a bargaining unit Employee is at work Monday through Friday, excepting holidays.

Section 6

Except by mutual written agreement to the contrary, only one grievance shall be taken to arbitration at any time before the same arbitrator.

Section 7

The impartial Arbitrator shall only have jurisdiction and authority to determine the meaning, application of, or compliance with provisions of this Agreement and shall not have jurisdiction or authority to add or detract from or alter in any way such provisions or any rules of discipline attached hereto.

Section 8

Time frames pursuant to discharge shall be commensurate with provisions of Article VII Section 1, Discharge/Arbitration of this Labor Agreement. In these cases arbitrators shall be selected immediately by the parties pursuant to Article V Section 1, Step 4 Grievance Procedure as it pertains to the Arbitrator selection process and the actual arbitration shall be held within seven days from the time it is referred to arbitration at Step 4.

Section 9

Time limitations may be waived by mutual agreement of both parties.

Section 10

The Company and the Union may refer grievances to non-binding mediation based on mutual consent.

ARTICLE VI - DISCIPLINARY PROGRAM AND DISCHARGE

Disciplinary Program

- 1.) No one may be disciplined or discharged without just cause. Discipline will be applied without discrimination on account of race, color, religion, gender, age, or national origin, disability or veteran's status. The procedure will be carried out uniformly in accordance with the following steps:

- 1. First Offense** Verbal warning, record on file with Manager and Local Steward.
- 2. Second Offense** Written warning with record on file with the Human Resource Office, copy given to the Local Union Steward.
- 3. Third Offense** Two working days off without pay, record on file with the Human Resources Office, copy to the Local Union Steward.
- 4. Fourth Offense** Discharge

In case of serious offenses, which affect customer relations (and thus jeopardize the jobs of fellow workers), or which could result in unlawful treatment, injury or death, to the Employee, fellow workers, or the public, the Employer shall have the right to bypass any or all of the progressive discipline steps and may discipline or discharge the Employee immediately subject to the arbitration procedure. These offenses shall include, but shall not be limited to the following;

1. Possession, use, sale or distribution of illegal substances and/or intoxicating beverages on the work site.
2. Bringing firearms or other weapons on the job.
3. Intentional theft of Government, Employer or Employee property.
4. Intentional destruction of Government, Employer or Employee property.
5. Intentional fraudulent activity.
6. Intentional falsification of Government or Company documents.
7. Sexual harassment.

Disciplinary actions will remain in an Employee's personnel file for a maximum period of one year unless otherwise designated by the Company.

Section 11 - Attendance Control

Excessive use/abuse of absenteeism or tardiness increases costs, creates an undue hardship on fellow Employees and limits ability to effectively plan and accomplish customer goals. Any Employee requesting time off must have prior approval of their manager. An unexcused absence is an absence that does not have prior approval of management or an absence without sufficient and appropriate documentation upon return to work. Employees absent for three (3) consecutive working days without a valid excuse or proper authorization may be considered to have voluntarily quit. Otherwise, the policy toward absenteeism will be as follows:

- 1.) Unexcused absence or tardy / first occurrence / Verbal warning.
- 2.) Unexcused absence or tardy / second occurrence / Written warning.
- 3.) Unexcused absence or tardy / third occurrence / 3 day suspension.
- 4.) Unexcused absence or tardy / fourth occurrence / Termination.

All disciplinary actions will remain in the Employee's personnel file for a period of one year.

ARTICLE VII - DISCHARGE/ARBITRATION

Section 1 – Discharge

In cases of Discharge, the Company shall notify the Local Union President and/or Union stewards of the discharge and its reason for such action in writing within two (2) working days. An Employee who claims he/she has been discharged without just cause must notify the Union within two (2) working days following the discharge. Notice that a discharge is being grieved must be made to the Company, in writing by the Union, within five (5) working days from the date of discharge. Discussions between the Company and the Union Representative concerning the discharge shall be considered Step 3. If not settled in Step 3, all discharges will be called in for immediate Arbitration.

ARTICLE VIII - HOURS AND OVERTIME

Section 1. When a shift is needed to respond to customer need, the Company will provide notice of a shift change to affected Employees no later than 2:00 p.m. Thursday in the week prior to the proposed shift change.

Section 2. A negotiated overtime distribution policy and overtime tracking roster will be posted on the appropriate bulletin boards.

Section 3. The workday shall begin at 12:01 a.m. and shall end at 12:00 midnight. The third shift, which normally begins at 11:00 p.m., will be considered the first shift of the following day.

Section 4. For payroll purposes the work week shall begin at 12:01 a.m. Saturday and shall end at 12:00 midnight the following Friday.

Section 5. Regular Work Week

The regular work week for Employees will consist of five (5) workdays during the period Monday through Friday, with two (2) consecutive days off (Saturday and Sunday), except for shift work which may be five (5) consecutive workdays during the period Monday through Sunday with two (2) consecutive days off.

Section 6. Regular Workday

The regular workday for Employees will consist of an eight (8) hour workday including one-half (1/2) hour unpaid meal and two (2) 15 min. paid break periods. For Employees working a Regular Work Week, work in excess of eight (8) hours shall be paid at time and one half. First shift shall be 7:00 a.m. until 3:00 p.m. Second shift shall be from 3:00 p.m. till 11:00 p.m. Third shift shall be 11:00 p.m. until 7:00 a.m.

Section 7. Overtime Distribution Policy

a) Purpose

The Company will make every reasonable effort to divide work among the Employees by classification and shift as impartially as is practicable. In doing this, it is recognized that the Company will take into account the qualifications of Employees for the job to be performed and efficient operation.

b) Procedures

Step 1 In assigned overtime, Employees shall perform the overtime work required. Employees actively working the task requiring overtime shall perform the overtime work required. In the event of extenuating circumstances an Employee is unable to perform overtime work assigned, the overtime assignment shall be referred to the overtime distribution list for equitable distribution.

Step 2 Employees will be selected for the overtime on the basis of the lowest overtime credited hours, provided they are qualified to perform the work.

Step 3 The necessity for the Company to work overtime to provide rapid response to emergencies is recognized in order to meet customer service

requirements. It is expected that Employees will continue to cooperate in working overtime for the Company's and Employee's best interests. If there is an insufficient number of Employees to perform the required work, Employees will be selected on the basis of their ability to perform the job in the reverse order of seniority. The least senior qualified person will be required to perform the needed work.

c) Scheduled Overtime

Employees who do not want to be considered for overtime work will declare that fact and it will be so designated by the Manager. Overtime will not be tracked for that Employee. If these Employees desire to return to the distribution of overtime, they will be credited as having the highest overtime, plus one hour, in their classification.

d) Emergency Overtime

Emergency overtime will be equitably distributed when possible. Emergency overtime will be recorded separately, but included in the total overtime hours.

e) New Hires

On the hire date, new Employees will be credited with the highest overtime hours, plus one hour in the classification for distribution purposes.

f) Record Keeping

A written record of overtime worked by Employees will be maintained by the Employee's Manager. The overtime record will indicate the Employee's name and the date. Employees will be credited with overtime worked by recording the actual number of overtime hours worked. Employees unable to work overtime, when requested, shall be deemed to have worked the overtime hours actually worked on the task for distribution of overtime purposes.

Should the Company and the Union determine that an Employee was improperly denied overtime opportunities, the Company shall provide the Employee with future available scheduled overtime, provided the Employee is qualified for the job to be done and it does not disrupt efficient operation.

g) Time Sheets

This policy is for distribution of overtime hours worked. For pay purposes, overtime hours are the hours recorded on the time sheet.

h) Implementation of Policy

To begin the overtime distribution process the Company will provide a report of year-to-date overtime worked. These hours will be transferred to an Overtime Distribution Record form.

Section 8 - Four-Ten Hour Shift

The Company may elect four/ten hour work shifts, either Monday through Thursday or Tuesday through Friday in order to meet the customers' needs. The Union and affected Employees will be given five working days notice prior to the commencement of the shift. The four/ten shifts will originally be established on a volunteer basis. If there are more volunteers than needed the Employees with the most seniority will be awarded the four/ten's provided they have the necessary skills to perform the job. If there are not enough Employees volunteering, the Employees with the least seniority will be required to work the four/ten's provided they have the necessary skills to perform the job. On this four/ten shift Employees will be paid time and one half of their straight time hourly rate for all hours in excess of ten (10) hours per day and forty (40) hours in a week.

Section 9 – Altered Work Schedule (AWS)

The Company may assign Employees an altered work schedule (AWS) consisting of eight (8) hours between the hours of 6:00 a.m. and 6:00 p.m. to meet customer requirements. At least three (3) days notice must be given before a new schedule is implemented. Employees may request an AWS outside of the normal work hours/days for personal needs. The AWS must ensure that customer support is maintained.

Section 10 - Overtime Calculations and Premium Days

- a. Time worked on Saturday and Sunday shall be paid at time and one-half (1-1/2) of the Employee's rate, and time worked on Holidays shall be paid at two and one half (2 ½) times the Employee's rate.
- b. Holidays and personal leave shall be included as time worked for the purpose of calculating overtime.
- c. There will be no "pyramiding" of overtime allowed.

Section 11 - Call Out Pay

An Employee called back to work after having completed his/her regular shift and gone home, shall receive a minimum of four (4) hours at their straight time rate of pay or pay for actual hours worked whichever is greater.

Section 12 - Show Up Pay

An Employee reporting for work at his regular scheduled starting time and for whom no work is provided, shall receive three (3) hours show up time unless

notified by the Company at least three (3) hours prior to their regularly scheduled starting time not to report to work.

Section 13 - Administrative Leave

When the site is closed due to weather or other catastrophic reasons, Employees will receive administrative leave only when reimbursement is allowed by the DOE.

ARTICLE IX- SENIORITY

Section 1. – Seniority

- a) Site seniority is defined as a Bargaining Unit Employee's continuous service at the site with PRDS and all predecessor employers.
- b) Bargaining unit seniority is defined as a bargaining unit member's continuous service earned under this Labor Agreement or predecessor Labor Agreement.
- c) The Company shall supply the Union with a job classification and site seniority list of the Employees covered by this Agreement. Such list(s) shall be revised annually.
- d) A probationary period of ninety (90) days will be observed for each new Employee during which time the Company will make specific and periodic evaluations of the Employee's qualifications, skills and abilities. During this probationary period, an Employee shall be considered as having no seniority rights, provided that upon completion of the probationary period, an Employee shall be entitled to seniority rights as measured from an Employee's employment date. During the probationary period, a new Employee may be discharged in accordance with Company Policy and procedure without recourse to the grievance procedure.

Section 2. – Layoff

The Company will determine the time of layoffs and the number of Employees to be laid off and in what job classifications layoffs will occur.

- 1) If a layoff should occur, the Union shall be notified at least two (2) weeks in advance. Such layoffs shall be made by bargaining unit seniority within the job classification affected. Should bargaining unit seniority within a job classification be equal, then site seniority shall be the determining factor as to who shall be laid off first. Should bargaining unit seniority and site seniority of the affected Employees be equal, then the determining criteria for breaking the tie shall be a flip of the coin with the Employee losing the coin flip being scheduled to be laid off.

- 2) An Employee scheduled to be laid off within any classification may use his/her bargaining unit seniority to bump a less-senior bargaining unit Employee who holds a classification for which he/she is qualified. If bargaining unit seniority is equal, then site seniority shall be used as the tiebreaker. Recall to employment from layoff shall be in reverse order of the layoff.
- 3) In the case of a layoff, probationary Employees shall be laid off first.
- 4) If at the time of layoff, any eligible Employee refuses to exercise their seniority right to bump less senior Employees within the active workforce, such Employee shall continue to retain seniority rights to be recalled. Any Employee scheduled to be laid off must notify the Company of an intention to exercise his/her seniority bumping rights within two (2) working days of the layoff notice. An Employee displaced in the bumping process may similarly exercise his/her seniority rights to displace another Employee in accordance with the same criteria.

Section 3 - Termination of Seniority

An Employee's seniority shall be terminated and his/her rights under this Agreement forfeited for the following reasons:

- (1) Discharge for just cause, quit, retirement, or resignation;
- (2) Failure to give notice of intent to return to work after recall within five (5) working days, or failure to return to work on the date specified for recall. An excuse from a medical doctor, leave secured by statute or a covered contractual situation, shall exempt an Employee from this return to work requirement. However, such circumstances must be communicated to the Employer within the five (5) day period outlined above.
- (3) Time lapse of eighteen (18) months, or for a period equal to the Employee's seniority (whichever is less) since the last day of actual work for the Company.
- (4) Failure to return to work upon expiration of a leave of absence;
- (5) Absence in excess of one (1) year due to physical disability; except where such absence is due to compensable disability incurred during the course of such employment, such absence shall not break continuous service, provided that such individual has returned to work within a seven (7) calendar day period after final payment of statutory compensation for such disability or after the end of the period used in calculating a lump sum payment. Upon return to work from a period of Disability, the Employee must present appropriate documentation verifying their availability date and medical release.

Section 4 – Recall

a) Order of Recall

If the Company determines to fill job vacancies, such vacancies shall be filled through the job posting and selection process from the active workforce first. All excess vacancies, not filled through this bidding procedure, or left vacant as a result of the bidding process shall be filled from the laid off panel of Employees awaiting recall who have the seniority and the qualifications to return to work and assume the job vacancy that is open. Such Employees, eligible for recall, shall be recalled in reverse order of layoff using seniority and qualifications to perform the duties of the job vacancy as the criteria for recall.

b) Notice to Recall

The Company will forward a notice of recall by certified mail to the last known address of the Employee reflected on records. The Employee must, within five (5) working days of delivery or attempted delivery of the notice of recall, notify the Company of his/her intent to return to work on the date specified for recall and thereafter, return to work on such date.

Section 5 - Job Posting

When the Company determines to fill a job within the Bargaining Unit, the Company will put a notice of the vacancy or job opening on the Employee bulletin boards for five (5) workdays. Subject to the provisions elsewhere in this Agreement any Employee may submit a bid for the job to the Human Resources Office in writing, during the posting period. The Company shall not be required to post a notice of vacancy or job opening for a particular job more than once every sixty (60) days. Any bid submitted within a posting period shall remain valid for sixty (60) days. If the Employer does not fill the job that is bid within 60 days, regardless of the reason, and later decides to fill that vacancy, the bid must be reposted before the job can be awarded.

Section 6 - Selection

From among Employees qualified for a posted job, who submit bids for the job, the Company will award the job to the most senior/qualified Employee. Provided that if two or more bidders have the same bargaining unit seniority, the Company will award the job to the Employee with the greater site seniority. If no Employees qualified for the posted job submit bids for the job, or no one from the recall panel is eligible to fill the vacancy, the Company may fill the job from any source.

Section 7 - Restriction on Bidding

An Employee who is awarded a job for which he/she bid, must accept it. If, immediately prior to being awarded a posted job, the Employee's designated job

classification was the same as or higher than the posted job, the Employee may not bid for another job for a period of twelve (12) months after being awarded the job.

Section 8 - Disqualification of a Bidder

An Employee who is unable to perform the job to which he/she bid to the satisfaction of the Company within thirty (30) workdays after being awarded the job shall be returned to the job classification he/she held at the time of submitting the bid.

Section 9 - Qualifications

It is agreed that the Company is the sole and exclusive agent to determine the qualifications, skills and abilities of all Employees.

ARTICLE X - HOLIDAYS

Section 1 - Holidays Celebrated

The following days shall be paid holidays for the purpose of this Agreement:

1. New Year's Day
2. President's Day
3. Martin Luther King Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Columbus Day
8. Veteran's Day
9. Thanksgiving Day
10. Christmas Day

Holidays that fall on Sunday will be observed on the following Monday and
Holidays that fall on Saturday will be observed on the preceding Friday.

Section 2 - Eligible Employees

To be eligible for Holiday pay, an Employee must be on the active payroll of the Company, and be in a compensable state on the day before and the day after the Holiday.

Section 3 - No Work on the Holidays

An Employee who is not required to work on the day observed as a Holiday shall receive eight (8) hours pay at his/her straight-time rate of pay, plus shift differential if applicable.

Section 4 - Work on the Holiday

An Employee who is required to work on the day observed as a Holiday shall receive time and one-half (1 1/2) times his/her straight time hourly rate for all hours actually worked on that day, in addition to eight (8) hours pay at his/her straight time rate of pay plus shift differential if applicable.

Section 5 - Holiday During a Personal Leave Period

If a Holiday occurs during the scheduled vacation of an eligible Employee, the Employee will not be charged a personal leave day for the Holiday and the observed Holiday shall be paid as Holiday pay.

ARTICLE XI – PERSONAL LEAVE

Section 1. Personal Leave

<u>Years of Full Time Service</u>	<u>Accrual Rate</u>
Less than two years	12 days
Two to five years	15 days
Five to ten years	18 days
Ten to fifteen years	21 days
Fifteen to twenty years	24 days
Over twenty years	27 days

- a) All full-time regular Employees in active payroll status (i.e., not on WC, A&S, or LWOP) for a minimum of fifteen days during the month shall accrue a prorated amount of personal leave based on the schedules above. Employees will accrue personal leave based on years of full-time service. Personal leave may be taken in thirty (30) minute increments.
- b) Employees may carry over a maximum of 288 hours of personal leave from one calendar year to the next. All personal leave above the maximum carry over will be paid to the Employee in the second payroll of January in the following year. All unused personal leave at the time of termination will be paid to the Employee in the final paycheck following termination.
- c) Employees will begin to accrue leave at the higher rate beginning with the first pay period of the month after the Employee completes the number of years of service required for the higher rate.
- d) Employees desiring to take personal leave must submit the request to his/her manager by 9:00 a.m. the day before leave is desired. Leave will be granted on a first come first serve basis. In some cases where submittals are made at the same time and only one Employee is allowed off due to the need to meet customer requirements, the situation will be determined by seniority. In cases of emergency or illness, same day requests for personal leave must be made to the

Employee's manager for approval at least thirty (30) minutes prior to the Employee's scheduled start time.

Section 2 –Catastrophic Leave

Employees will continue to accrue 2 hours of catastrophic leave per month into their leave account. Current catastrophic leave accumulation will be carried forth into this Agreement. Leave balances will be carried over from one year to the next. Leave usage will be in accordance with Company policy which shall be revised in consultation with the Union.

ARTICLE XII - LEAVES OF ABSENCE

Section 1 - Bereavement Pay

When death occurs in an Employee's immediate family (spouse, mother, father, mother-in-law, father-in-law, son, daughter, brother or sister, step-father, step-mother, step-children, step-brother or step-sister, grandfather, grandmother and grandchildren), an Employee upon request will be excused for up to three (3) consecutive days to include the day of the funeral. Upon the approval of Human Resources, an Employee may reserve one of the days for estate affairs at a later date. The Employee shall receive pay at his/her regular rate, provided it is established that he/she attended the funeral.

Section 2 - Severance Pay

An Employee who is terminated shall be paid one week's pay per year of Service up to a maximum of eighteen (18) weeks (minimum of 1 week will be paid).

Section 3 – Jury Duty

An Employee who is called for and who performs jury duty or who is subpoenaed to appear in court as a witness will be compensated by the Company for the difference between payment received for such compulsory jury duty or compulsory court appearance and the payment the Employee would have received for straight time hours they thereby lose from a normal work schedule computed at the Employee's established hourly base rate as long as the Employee is not party in the legal action.

In order to be paid by the Company for such leave, the Employee must submit to the Human Resources written proof of having served, and the duration of such service.

Section 4 - Military Service

Regular full-time Employees who are members of a military reserve organization and are ordered to temporary training duty are paid the difference for which their straight time pay exceeds their military pay, excluding travel allowances. Payment

is made for up to ten days of training in any calendar year. In support of this payment, Employees must furnish Human Resources a copy of their orders along with a voucher from their paymaster as soon as practical following their training

Section 5 - Union Business

Employees who have an official request for a leave of absence shall be granted leave to participate in Union activities. Unless otherwise allowed by the Employer, no more than two leave requests will be granted for Union activities on any given day.

ARTICLE XIII - MANAGEMENT RIGHTS

The Union recognizes that the Company retains the sole right to manage its business, as such right existed prior to the execution of this Agreement except only as expressly abridged by a specific provision of this Agreement. The Company reserves and retains, solely and exclusively, all of its inherent rights to manage the business including but not limited to:

1. The direction of the working force including the right to hire and decide the number of Employees required and to make rules governing the conduct of the working force which will be applied in a reasonable fashion.
2. Determine work methods and procedures, and to issue, amend and revise policies, rules, regulations, and practices.
3. Require all Employees to observe all safety regulations prescribed by the Company and/or the Government and to work safely.
4. Discharge, suspend, or discipline Employees for just cause.
5. The Company may, if it desires, maintain a variety of skills within its group of Employees to be prepared to have skills and/or supervision for any type of work that may arise.
6. The Union understands the extreme importance of keeping operating equipment, units, and facilities running at all times. The Union also understands that the loss of production and the cost of repairs together create a great loss to Government. Therefore, the Union will encourage and advise the Employees to exhaust every effort, ways and means to perform work of good quality and quantity. The Company and the Union recognize the necessity for eliminating restrictions and promoting efficiency and agree that no rules, customs or practices shall be permitted that limit production or increase the time required to do the work, and no limitation shall be placed upon the amount of work which an Employee shall perform, nor shall there be any restrictions against the use of any kinds of machinery tools or labor-saving devices.

7. It is understood by the Company and agreed to by the Union, that the Employees of the Company will perform the work requested by the Company without having any concern or interference with any other work performed by any Employees who are not covered by this Agreement doing non-bargaining unit work.
8. The Company's failure to exercise any right, prerogative, or function in a particular way, shall not be considered a waiver of the Company's right to exercise such right, prerogative, or function or preclude it from exercising the same in some other way not in conflict with the employees provision of this Agreement. In exercising its rights under this Article, the Company shall not violate the provision of this Agreement.

ARTICLE XIV - PERIODIC CONFERENCES

The parties recognize for their joint benefit, the prosperity and efficiency of the Company are dependent upon their ability to work cooperatively. In order to achieve this, the parties agree to meet periodically, but not less than three times per year, to discuss items of mutual interest. The Company shall designate three (3) representatives and the Union shall designate three (3) representatives to participate in the conference. Union representatives that are the Employees of the Company shall be compensated at their applicable straight time rate for their time spent in conference.

ARTICLE XV - BULLETIN BOARDS

The Employer will provide a bulletin board or bulletin boards for the use of the Local Union on the property that are in conformity with government regulations and which provide reasonable access by the Union membership to information that the Union wishes to communicate.

ARTICLE XVI – SAFETY

Section 1.

The Company will comply with all applicable health and safety laws and regulations and the Company and all Employees agree to cooperate toward the objective of eliminating accidents and health hazards. The Company will continue to make reasonable provisions for the safety and health of its Employees during the hours of their employment. The Union agrees that the Company may terminate any Employee covered by this Agreement who intentionally exposes him/herself or any individual to unsafe acts, which could result in serious bodily harm. All Employees must immediately report any work-related injury, as per site policy. An Employee may not be discriminated against for following this procedure.

Section 2.

The Company and the Union agree to establish a quarterly meeting to cooperate in the elimination of unsafe and hazardous conditions and the improvement of the safety record. The committee will consist of three (3) representatives from management and three (3) representatives from the Union.

Section 3.

All Employees will follow the Company's Safety Operating Policies and Procedures as well as NETL's Environmental Safety and Health Program. Copies of these policies and programs will be available to all Employees on the Local Area Network (LAN) and in the Company's office of Environmental Safety and Health (EH&S). Any new Safety policies and/or procedures established by the Company shall be posted on the bulletin boards.

Section 4.

District and/or International Representatives requesting access to the site to discuss safety matters/incidents with management personnel shall be granted access subject to the routine check in/out procedures.

Section 5.

In cases involving major accidents or fatalities of bargaining unit Employees, the Union steward will be allowed to participate in the Company's investigation of the incident.

ARTICLE XVII - NEW EQUIPMENT

In the event that new equipment or devices are introduced and are to be operated or maintained by bargaining unit personnel, the Company agrees to provide training on such equipment on an as needed basis. The Employees and the manner in which they are trained, will be determined by the Company.

ARTICLE XVIII – SUCCESSORSHIP

The provisions of this Agreement shall be binding upon and to the mutual benefit of the Parties thereto, and to their successors and assigns, except as may otherwise be provided by applicable law or federal regulations.

ARTICLE XIX - NO STRIKE - NO LOCKOUT

1. The Company agrees there will be no lockout of the Union or of Employees represented by the Union during the term of this Agreement.
2. The Union, collectively, and the Employees covered by this Agreement, agree they will not call, engage in or sanction any strike during the term of this Agreement.

ARTICLE XX - TEMPORARY/PART TIME EMPLOYEES

No one may be retained in a temporary or part time capacity while any full-time Employee is on layoff. Temporary/part time Employees may never exceed fifteen percent (15%) of the full time classified workforce even when there is no reduction in

force/layoff. Temporary Employees with an anticipated employment of less than six (6) months will receive \$1.65 per hour in lieu of benefits. Part-time Employees will receive \$1.65 per hour in lieu of benefits. Temporary Employees shall not be employed for more than six (6) consecutive months.

ARTICLE XXI - CONTINUANCE OF EMPLOYER PROVIDED APPAREL AND TOOLS

The Employer agrees to continue the practice of providing Employees with certain wearing apparel, tools and safety devices including, but not limited to, steel toed boots and shoes, uniforms, safety glasses, gloves, and other items previously provided to the Employee for his or her use in carrying out their duties. In the event that the government, for whatever reason, decides to discontinue certain programs that provide any of these items the Union will immediately negotiate with the Employer with respect to the impact that such changes have had on it's membership.

ARTICLE XXII – HEALTH BENEFITS

Section 1 - Health Care

Plan general outline attached as Appendix “C”, 216 Plan. Plan carrier is at the discretion of the Employer, but changes in the level of benefits are subject to collective bargaining.

(a) First Full Year of the Agreement- January 2006 to December 31, 2006

Health care rates shall be set at:

Morgantown:
\$148 per month for full Family coverage
\$128 per month for Employee & Spouse coverage
\$115 per month for Employee & Child(ren) coverage
\$48 per month for Single coverage

(b) Second and Third Full Year of the Agreement - January 2007 to December 2008

In the event that health care costs increase or decrease, the Employer and Employees shall share the cost, such that the Employer shall pay eighty-five percent (85%) of the cost and Employees shall pay fifteen percent (15%) of the cost.

Section 2 – Waiver of Health Care Benefits

Employees may opt to waive health insurance coverage and receive a waiver paid on a bi-weekly basis. Employees must furnish proof of other health coverage to qualify for the waiver. Employees may receive the following:

Individual - \$650.00 per year Family - \$650.00 per year

Article XXIII - DENTAL PLAN

The Dental Plan currently in effect will continue with a rate of \$15.00. Such rate shall continue for the life of this Agreement.

ARTICLE XXIV - SCHEDULE OF OTHER BENEFITS

Section 1 - Life Insurance and AD&D

The Company will provide Life insurance as currently stated in the PRDS policy, equal to two (2) times the Employee's annual salary rounded up to the next thousand dollars. The Company will also provide AD&D as currently stated in the PRDS policy, equal to two (2) times the Employee's annual salary rounded up to the next thousand dollars. The rates for dismemberment/loss of sight etc. will also follow the current PRDS policy.

Section 2 - Long Term Disability

Employees may participate in the Company's Long Term Disability (LTD) Insurance Program as described in the PRDS LTD policy.

Section 3 - Retirement/401K Savings Plan

The Employer agrees to establish for each represented Employee an individual 401K Savings and Investment Plan. The Plan shall be established and handled by a reputable investment company and administered by them under arrangements with the Employer pursuant to the following:

1. The 401K Savings and Investment Plan will be funded on behalf of each Employee covered under the terms of this Agreement with respect to one or both of the following avenues;
 - (a) Employer contributions only up to a certain yearly maximum.
 - (b) Combination of Employer contribution up to a certain yearly maximum and Employer contribution for each Employee dollar set aside into the 401K savings and Investment Plan.
2. The Employer will be responsible for putting into an Employee's account the amount of fifty cents (\$.50) for each hour worked in a given year up to a maximum of one thousand dollars (\$1000) per contract year. This contribution by the Employer shall be made without respect to any contributions made by the Employee.
3. In addition to the contributions made by the Employer under (2) above, an Employee may elect to set aside a portion of his/her pay each pay period to also be placed into their 401K Savings and Investment Plan.
 - (a) Should the Employee choose to apply a portion of his/her pay as outlined in (3) above, the Employer, in addition to the contributions outlined in (2) above will

also contribute fifty-five cents (\$.55) for every dollar set aside by the Employee up to six (6) percent of his/her salary.

4. The Employer agrees that it will bear the costs associated with the fees charged by the financial advisors who are handling the 401K Savings and Investment Plan for the Employer pursuant to this Agreement.

5. The 401K Savings and Investment Plan shall offer a diverse selection of investment vehicles in which an Employee may choose to invest his/her monies.

6. A year within the Plan outlined herein will run from anniversary date to anniversary date of the effective date of this collective bargaining Agreement.

Section 4 - Dependent Life Insurance Plan/Supplemental Life Insurance Plan

Employees may participate in the Dependent/Supplemental Life Insurance Program as described in the PRDS policy.

Section 5 - Accident & Sickness/Short Term Disability

The Company will provide A&S insurance as stated in the current PRDS policy, equal to two-thirds (2/3rds) of the Employee's weekly base rate up to a maximum of eight hundred (\$800) dollars per week.

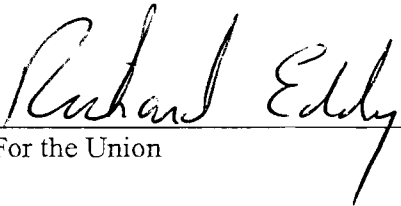
Section 6 – Awards Fees Distribution

Bargaining unit members shall participate in twenty-five (25%) percent of the Awards Fees Distribution program.

ARTICLE XXV - TERM OF AGREEMENT


This Agreement shall take effect January 1, 2006, and shall remain in effect through December 31, 2008 and shall continue in effect from year to year thereafter, unless changed or terminated. Either party desiring to change or terminate this Agreement must notify the other in writing at least sixty (60) days prior to January 1, 2009.

IN WITNESS WHEREOF, each of the parties signatory hereto has caused this Agreement to be signed this 29th Day of December, 2005.




For the Union

12/29/2005
Date



For the Employer



12/29/2005
Date

APPENDIX A

Wages

1. On January 1, 2006, all Employees covered by this contract shall receive a sixty-five cent (\$0.65) increase in their wages.
2. On January 1, 2007, all Employees covered by this contract shall receive a sixty-five cent (\$0.65) increase in their wages.
3. On January 1, 2008, all Employees covered by this contract shall receive a sixty-five cent (\$0.65) increase in their wages.

<u>Classification</u>	<u>1/01/06</u>	<u>1/01/07</u>	<u>1/01/08</u>
Tech I	\$15.48	\$16.13	\$16.78
Tech II	\$19.35	\$20.00	\$20.65
Tech III	\$21.25	\$21.90	\$22.55
Tech IV	\$23.70	\$24.35	\$25.00
Tech V	\$27.53	\$28.18	\$28.83

APPENDIX B

**MEMORANDUM OF UNDERSTANDING BETWEEN PRDS AND UMWA
LOCAL 1717**

PRDS will post the appropriate jobs to reach the agreed upon staffing levels.

1. The attached job descriptions will replace the existing job descriptions in the collective bargaining agreement.
2. We will dismiss all current grievances without prejudice or precedent.
3. Engineering Technician I (ET-1) and (ET-2) will follow the agreed upon timeline to ET-3.

ET-1 to ET-2

Advancement to ET-2 will be based on one calendar year of satisfactory job performance. Unsatisfactory performance must be documented and may delay advancement. Job performance will be evaluated quarterly and the individual will be counseled.

ET-2 to ET-3

Advancement to an ET-3 will occur after the individual has five years of satisfactory site experience. Previous experience/education can be substituted for up to one year of site experience. Unsatisfactory job performance must be documented and may delay advancement. Job performance will be evaluated and the individual will be counseled.

Any delay in advancement under this item #3 may be challenged pursuant to Article 5, Grievance Procedure of the Collective Bargaining Agreement.

4. Additional ET-4 and ET-5 positions will be available if the need exists, as determined by management, or with regard to ET-5's, if five or more technicians are hired. No ET-6 classification work is being, or has been, performed by bargaining unit members.
5. Any level technician can work independently on tasks within his job description with periodic instruction and/or guidance from higher level technicians or supervisors. No technician on any level requires constant supervision.
6. ET-2 and above can train, instruct and provide guidance to other technicians equal to/or lower than his level.

7. ET-3 can assist in design work, and design work can be performed by ET-4 and above (see job descriptions). Field fitting and dimensional changes do not constitute design.
8. A group of two or more technicians at any level can work together as a team on tasks that they are competent to perform. The higher-level technicians can/should provide guidance to the team. A lower level technician can work as a helper with a higher level technician on tasks in the higher level. ET-1 and ET-2 may be assigned higher level work for the purpose of training and qualification for advancement. This does not constitute out of classification work. However, once an employee reaches ET-3 he will be paid the applicable rate for the work performed.
9. UMWA will agree to the current Award Fee sharing plan.
10. PRDS will recognize government site seniority.

This MOU will be effective October 6, 2000.

Morgantown Position Descriptions

Title: Engineering Technician 1

9/26/00

Minimum Position Knowledge, Skills, and Abilities Required:

High School diploma/GED or equivalent, and no job-related experience. Good communication and analytical skills.

Purpose and Scope:

Under guidance/training from a higher level technician or supervisor or using detailed procedures/work instructions, performs simple and routine tasks or tests within, but not necessarily limited to a prescribed area of expertise. Work is checked in progress or on completion. Periodically, technician is assigned work above classification for the purpose of using experience gained for future assignments and advancement opportunities. Duties will be varied.

Essential Responsibilities/Requirements:

1. Assemble or install equipment or parts requiring simple wiring, soldering, or connections, such as:
 - Install conduit, pull wire and terminate wire
 - Replace fuses, CB, overloads, electrical devices
 - Mount transmitters, thermocouples and gauges
 - Fabricate panels and assemble control bays
2. Perform simple or routine tasks or tests, such as tensile or hardness test, sample grinding, or sieve analysis, such as:
 - Transferring coal/or other bulk solids
 - Perform bulk density, crush strength and attrition testing
 - Prepare feedstocks (mix, blend)
 - Fill and weigh drums
 - Painting, labeling
3. Operate and adjust simple test equipment, and record data, such as:
 - Calibrate instruments such as gauges, balances and sensors
 - Operate Digital Voltage Meter
 - Use calipers and torque wrenches
4. Gather and maintain specified records of engineering data, such as:
 - Test data sheets, drawings, MSDS, P&ID's
 - Data log books
 - Perform Inventories
5. Perform computations by substituting numbers in specific formulas, such as:
 - Iso kinetic sampling and calculations
 - Release analysis, moisture analysis, water quality analysis
 - Engineering units conversion
 - Simple electrical calculations
6. Assist with the installation, fabrication, modification, and operation of test equipment used on special projects, such as:

- Operate portable power tools (drills, saws, grinders, etc.)
Operate pipe threader, drill press, band saws, lathe, jig saw and other stationary equipment
 - Install tubing, piping, gauges, valves and fittings
 - Operate oxy-acetylene torch
7. Perform routine facilities maintenance and repair and support higher level technicians in performing non-routine facilities maintenance and repair.
 8. Perform other position related duties as assigned or requested.

Physical and Mental Demands:

1. Be able to read, write, and perform simple mathematical calculations.
2. Use step and sectional ladders
3. Use various types of respirators, to include self contained breathing units.
4. Personal protective equipment such as safety glasses, safety toe shoes, hard hats, lab coats, hearing protection, face shields, and gloves may be required. Requirements will vary depending on the area and type of work performed.
5. Overhead or lift-bucket work maybe required. Safety harnesses will be worn.
6. Work in a confined area may be required.
7. Operation of motor vehicles including forklifts may be required.
8. Vision requirements include the ability to focus and depth perception
9. The ability to respond to visual and audio alarms is required.
10. Able to routinely lift and move twenty-five pounds, occasionally lift or move forty pounds, and transfer manually fifty pound containers
11. Hand eye coordination is required.
12. Operate cranes and hoists
13. Will be trained in basic first aid and rescue
14. While performing his job, the employee is regularly required to stand, walk, extend hands and arms, and to talk and hear. The employee is frequently required to use their hands to handle or feel objects, tools, and controls. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.
15. May include shift work.
16. May be asked to participate in Emergency Response Operations on a voluntary basis, refusal is without prejudice. All volunteers will receive appropriate training.

Work Environment:

1. Frequently works in hot and cold environments, near operating machinery, heated and pressurized systems
2. Work may expose employee to fumes, airborne particles, coal dust, irritants, sensitizers, toxic or caustic chemicals and noise. Controls are used to bring exposure to within acceptable levels
3. Employee will be trained to use spill cleanup kits.
4. Use of emergency showers and eyewash stations may be required.

Integrated Safety Management:

1. Know and follow environment, safety, and health (ES&H) policies and procedures that apply to their job assignments.

2. Become knowledgeable of and maintain awareness of the ES&H hazards associated with their work. Perform work safely in accordance with hazard controls.
3. Report all unsafe operations, and, if necessary, exercise stop-work authority in cases of imminent danger.
4. Work only on those tasks in which they have the required competence, training, skills, and abilities so as to prevent injury to ones self, employees, the public, or the environment.
5. Maintain active involvement in the introduction, revision and/or promotion of ES&H/ISM program activities.

Title: Engineering Technician 2

9/26/00

Minimum Position Knowledge, Skills, and Abilities Required:

High school diploma/GED and vocational/technical training beyond high school or equivalent and at least three years of job-related experience, or one year satisfactory performance at an Engineering Technician 1 level. Good communication and analytical skills and a working knowledge of computer systems and software application programs.

Purpose and Scope:

Under guidance from a higher level technician or supervisor, performs generally standardized tasks or tests involving a sequence of related operations, within, but not necessarily limited to a prescribed area of expertise. Follows standard work methods on recurring assignments, but receives explicit instructions on unfamiliar assignments. Technical adequacy of routine work is reviewed on completion; non-routine work may also be reviewed in progress. Will perform the essential responsibilities of lower level technicians and will instruct/train other technicians. Periodically, technician is assigned work above classification for the purpose of using experience gained for future assignments and advancement opportunities. Duties will be varied.

Essential Responsibilities:

1. Assemble or construct simple or standard equipment or parts, such as:
 - Assemble flow loop components for completion.
 - Construct project I/O hardware panels.
 - Fabricate sheet metal enclosures.
 - Install and fabricate tubing and piping runs per the P&IDs.
2. Service or repair simple instruments or equipment, such as:
 - Repair or replacement of pumps and motors used on research projects
 - Repair or replacement of thermocouples, gauges, switching devices, and valves.
 - Troubleshoot and repair or replacement of electrical devices and I/O hardware
3. Conduct a variety of tests using established methods, such as:
 - Perform leak and hydro testing procedures
 - Perform load testing on electrical circuits and panels
 - Perform water analyses for conductivity and hardness
4. Prepare test specimens, adjust and operates equipment, and records test data, such as:
 - Perform sizing analysis and generate size fractions for testing
 - Calibrate and adjust test instruments such as gauges, balances, sensors and pumps
 - Record data from project operations systems (APACS, GENESIS, PARAGON, etc.)
5. Extract engineering data from various prescribed but non-standardized sources, such as:
 - Retrieve data from project operations software
 - Retrieve and use data from P&IDs, Instrument Indexes, logic drawings
 - Retrieve data from material test data sheets and instrument certification sheets
 - Record data from preventive maintenance performed on equipment
6. Present the data in prescribed form, such as:

- Organize data in tabular form
 - Graph test data
 - Perform sampling calculations
7. Perform a wide variety of duties in the installation, modification, and operation of test equipment used on special projects, such as:
 - Machine or fabricate replacement parts for research projects
 - Perform basic welding on non-critical applications
 - Install electrical and instrument equipment to research projects.
 - Fabricate sheet metal cabinets, wire trays, and hoods
 - Install spool pieces, blanks, and piping components
 - Install/modify tubing, piping, gauges and fittings
 - Provide operations support to research projects, including data recording and sampling
 8. Perform basic preventive maintenance (i.e. visual inspections, lubrication, filter changing, cleaning, etc.).
 9. Perform other position related duties as assigned or requested.

Physical and Mental Demands:

1. Be able to read, write, and perform simple mathematical calculations.
2. Use step and sectional ladders
3. Use various types of respirators, to include self contained breathing units.
4. Personal protective equipment such as safety glasses, safety toe shoes, hard hats, lab coats, hearing protection, face shields, and gloves may be required. Requirements will vary depending on the area and type of work performed.
5. Overhead or lift-bucket work maybe required. Safety harnesses will be worn.
6. Work in a confined area may be required.
7. Operation of motor vehicles including forklifts may be required.
8. Vision requirements include the ability to focus and depth perception
9. The ability to respond to visual and audio alarms is required.
10. Able to routinely lift and move twenty-five pounds, occasionally lift or move forty pounds, and transfer manually fifty pound containers
11. Hand eye coordination is required.
12. Operate cranes and hoists
13. Will be trained in basic first aid and rescue
14. While performing his job, the employee is regularly required to stand, walk, extend hands and arms, and to talk and hear. The employee is frequently required to use their hands to handle or feel objects, tools, and controls. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.
15. May include shift work.
16. May be asked to participate in Emergency Response Operations on a voluntary basis, refusal is without prejudice. All volunteers will receive appropriate training.

Work Environment:

1. Frequently works in hot and cold environments, near operating machinery, heated and pressurized systems
2. Work may expose employee to fumes, airborne particles, coal dust, irritants, sensitizers, toxic or caustic chemicals and noise. Controls are used to bring exposure

to within acceptable levels

3. Employee will be trained to use spill cleanup kits.
4. Use of emergency showers and eyewash stations may be required.

Integrated Safety Management:

1. Know and follow environment, safety, and health (ES&H) policies and procedures that apply to their job assignments.
2. Become knowledgeable of and maintain awareness of the ES&H hazards associated with their work. Perform work safely in accordance with hazard controls.
3. Report all unsafe operations, and, if necessary, exercise stop-work authority in cases of imminent danger.
4. Work only on those tasks in which they have the required competence, training, skills, and abilities so as to prevent injury to ones self, employees, the public, or the environment.
5. Maintain active involvement in the introduction, revision and/or promotion of ES&H/ISM program activities.

Title: Engineering Technician 3

9/26/00

Minimum Position Knowledge, Skills, and Abilities Required:

High school diploma/GED and vocational/technical training beyond high school or equivalent and at least five years of job-related experience, or four years satisfactory performance at an Engineering Technician 2 level. Specific training, and licensing and advanced knowledge in the particular area of specialization, plus a broad knowledge of other disciplines. Good communication and analytical skills and a working knowledge of computer systems and software application programs.

Purpose and Scope:

Performs routine and non-routine tasks or tests of some complexity and variety, within, but not necessarily limited to a prescribed area of expertise. Receives initial instructions, equipment requirements, and advice from supervisor or higher level technician as needed. Performs recurring work independently, and the technical adequacy or conformity of routine work is reviewed on completion. Non-routine work may be reviewed in progress. Will perform the essential responsibilities of lower level technicians and will instruct/train other technicians. Periodically, technician is assigned work above classification for the purpose of using experience gained for future assignments and advancement opportunities. Duties will be varied.

Essential Responsibilities/Requirements:

1. Construct components, sub-units, or simple models or adapt standard equipment. May trouble shoot and correct malfunctions, such as:
 - Fabrication and welding of air, nitrogen, and fuel distribution systems
 - Fabrication of burner nozzles and transition pieces
 - Installation of Tail gas sampling systems
 - Installation of motor and gear reduction units, performing shaft alignment to unit
 - Investigate system sources for proper pressures
 - Investigate non-operating motors and pumps and make operational
2. Follows specific layout and scientific diagrams to construct and package simple devices and sub-units of equipment, such as:
 - Fabrication and installation of vessels
 - Fabrication and installation of instrument racks
 - Fabrication and installation of process piping
 - Installation of electrical conduit and switch gear
 - Fabrication and installation of process control panel and components
3. Select or adapt standard procedures or equipment, using fully applicable precedents.
4. Select, setup, and operate standard test equipment and records test data, such as:
 - Perform pre-operation safety checks to units, correct deficiencies and document
 - Perform operation and documentation on testing unit
 - Operate sampling equipment for monitoring gas streams

5. Extract and compile a variety of engineering data from lab/test rig notes, manuals, etc.
6. Process data and identify errors or inconsistencies
7. Select methods of data presentation
8. Assists in design modification by compiling data related to design, specifications, and materials, which are pertinent to specific items of equipment or component parts.
9. Develop information concerning previous operational failures and modifications
10. Setup, operate, and maintain service support equipment and record data in logs
11. Perform major planned preventive or major overhaul maintenance using diagnostic equipment and equipment materials.
12. Perform other position related duties as assigned or requested.

Physical and Mental Demands:

1. Be able to read, write, and perform simple mathematical calculations.
2. Use step and sectional ladders
3. Use various types of respirators, to include self contained breathing units.
4. Personal protective equipment such as safety glasses, safety toe shoes, hard hats, lab coats, hearing protection, face shields, and gloves may be required. Requirements will vary depending on the area and type of work performed.
5. Overhead or lift-bucket work maybe required. Safety harnesses will be worn.
6. Work in a confined area may be required.
7. Operation of motor vehicles including forklifts may be required.
8. Vision requirements include the ability to focus and depth perception
9. The ability to respond to visual and audio alarms is required.
10. Able to routinely lift and move twenty-five pounds, occasionally lift or move forty pounds, and transfer manually fifty pound containers
11. Hand eye coordination is required.
12. Operate cranes and hoists
13. Will be trained in basic first aid and rescue
14. While performing his job, the employee is regularly required to stand, walk, extend hands and arms, and to talk and hear. The employee is frequently required to use their hands to handle or feel objects, tools, and controls. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.
15. May include shift work.
16. May be asked to participate in Emergency Response Operations on a voluntary basis, refusal is without prejudice. All volunteers will receive appropriate training.

Work Environment:

1. Frequently works in hot and cold environments, near operating machinery, heated and pressurized systems
2. Work may expose employee to fumes, airborne particles, coal dust, irritants, sensitizers, toxic or caustic chemicals and noise. Controls are used to bring exposure to within acceptable levels
3. Employee will be trained to use spill cleanup kits.
4. Use of emergency showers and eyewash stations may be required.

Integrated Safety Management:

1. Know and follow environment, safety, and health (ES&H) policies and procedures that apply to their job assignments.
2. Become knowledgeable of and maintain awareness of the ES&H hazards associated with their work. Perform work safely in accordance with hazard controls.
3. Report all unsafe operations, and, if necessary, exercise stop-work authority in cases of imminent danger.
4. Work only on those tasks in which they have the required competence, training, skills, and abilities so as to prevent injury to ones self, employees, the public, or the environment.
5. Maintain active involvement in the introduction, revision and/or promotion of ES&H/ISM program activities.

Title: Engineering Technician 4

9/26/00

Minimum Position Knowledge, Skills, and Abilities Required:

High school diploma/GED and vocational/technical training beyond high school or equivalent, and at least seven years of job-related experience. Specific training, and licensing and advanced knowledge in the particular area of specialization, plus a broad knowledge of other disciplines. Good communication and analytical skills and a working knowledge of computer systems and software application programs.

Purpose and Scope:

Performs routine and non-routine tasks or tests of substantial complexity and variety where operational precedents may sometimes not exist. Performs recurring and non-routine work independently, and the technical adequacy or conformity of non-routine work is reviewed on completion. Such assignments are typically part of broader assignments, and they may need to be screened to eliminate and resolve unusual design problems. Will be tasked to plan and estimate requirements for such assignments. Will perform the essential responsibilities of lower level technicians and will instruct/train other technicians. Periodically, technician is assigned work above classification for the purpose of using experience gained for future assignments and advancement opportunities. Duties will be varied.

Essential Responsibilities/Requirements:

1. May be assigned to independently lead and coordinate the activities on a task or shift, which may include;
 - Recognize and correct unsafe practice and conduct
 - Notify management of any abnormal physical or mental conditions (state) of employee on assigned shift
 - Ensure compliance and correct discrepancies with area safety conditions, and notify management if discrepancies can not be resolved
 - Ensure that policies and procedures are being followed
2. Develop or review designs by extracting and analyzing a variety of engineering data
3. Perform a wide variety of duties of complex nature in the installation, modification, and operation of electronic equipment.
4. Perform market surveys for equipment as per the engineering requirements, and provide information to higher level technician, engineer, or management.
5. Perform other position related duties as assigned or requested.

Physical and Mental Demands:

1. Be able to read, write, and perform simple mathematical calculations.
2. Use step and sectional ladders

3. Use various types of respirators, to include self contained breathing units.
4. Personal protective equipment such as safety glasses, safety toe shoes, hard hats, lab coats, hearing protection, face shields, and gloves may be required. Requirements will vary depending on the area and type of work performed.
5. Overhead or lift-bucket work maybe required. Safety harnesses will be worn.
6. Work in a confined area may be required.
7. Operation of motor vehicles including forklifts may be required.
8. Vision requirements include the ability to focus and depth perception
9. The ability to respond to visual and audio alarms is required.
10. Able to routinely lift and move twenty-five pounds, occasionally lift or move forty pounds, and transfer manually fifty pound containers
11. Hand eye coordination is required.
12. Operate cranes and hoists
13. Will be trained in basic first aid and rescue
14. While performing his job, the employee is regularly required to stand, walk, extend hands and arms, and to talk and hear. The employee is frequently required to use their hands to handle or feel objects, tools, and controls. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.
15. May include shift work.
16. May be asked to participate in Emergency Response Operations on a voluntary basis, refusal is without prejudice. All volunteers will receive appropriate training.

Work Environment:

1. Frequently works in hot and cold environments, near operating machinery, heated and pressurized systems
2. Work may expose employee to fumes, airborne particles, coal dust, irritants, sensitizers, toxic or caustic chemicals and noise. Controls are used to bring exposure to within acceptable levels
3. Employee will be trained to use spill cleanup kits.
4. Use of emergency showers and eyewash stations may be required.

Integrated Safety Management:

1. Know and follow environment, safety, and health (ES&H) policies and procedures that apply to their job assignments.
2. Become knowledgeable of and maintain awareness of the ES&H hazards associated with their work. Perform work safely in accordance with hazard controls.
3. Report all unsafe operations, and, if necessary, exercise stop-work authority in cases of imminent danger.
4. Work only on those tasks in which they have the required competence, training, skills, and abilities so as to prevent injury to ones self, employees, the public, or the environment.
5. Maintain active involvement in the introduction, revision and/or promotion of ES&H/ISM program activities.

Title: Engineering Technician 5

9/26/00

Minimum Position Knowledge, Skills, and Abilities Required:

High school diploma/GED and vocational/technical training beyond high school or equivalent, and at least nine years of job-related experience. Specific training, and licensing and advanced knowledge in the particular area of specialization, plus a broad knowledge of other disciplines. Good communication and analytical skills and a working knowledge of computer systems and software application programs.

Purpose and Scope:

Performs non-routine and complex assignments involving responsibility for planning and conducting a complete project of relatively limited scope or a portion of a larger and more diverse project. Conducting these assignments will involve estimating and scheduling resources and adapting plans, techniques, designs, or layouts. Will be necessary to contact personnel in related activities to resolve design and layout problems and to coordinate the work. Will perform the essential responsibilities of lower level technicians and will train/instruct lower level technicians. Duties will be varied.

Essential Responsibilities/Requirements:

1. Investigate accidents with Safety Officer, completes and forwards accident/incident reports to management.
2. Provide weekly safety contacts to assigned personnel.
3. Participate in the interviewing of candidates, and completes interview appraisal forms.
4. Provide non-subjective input to management in the performance evaluations of engineering technicians assigned.
5. Provide non-subjective input to management for personnel bidding on job postings.
6. Ensure work order estimates and closeouts have been completed by the assigned lower level technicians and forwarded to management.
7. Works with management in coordinating weekly planning and work schedules.
8. Perform other position-related duties as assigned or requested.

Physical and Mental Demands:

1. Be able to read, write, and perform simple mathematical calculations.
2. Use step and sectional ladders
3. Use various types of respirators, to include self contained breathing units.
4. Personal protective equipment such as safety glasses, safety toe shoes, hard hats, lab coats, hearing protection, face shields, and gloves may be required. Requirements will vary depending on the area and type of work performed.

5. Overhead or lift-bucket work maybe required. Safety harnesses will be worn.
6. Work in a confined area may be required.
7. Operation of motor vehicles including forklifts may be required.
8. Vision requirements include the ability to focus and depth perception
9. The ability to respond to visual and audio alarms is required.
10. Able to routinely lift and move twenty-five pounds, occasionally lift or move forty pounds, and transfer manually fifty pound containers
11. Hand eye coordination is required.
12. Operate cranes and hoists
13. Will be trained in basic first aid and rescue
14. While performing his job, the employee is regularly required to stand, walk, extend hands and arms, and to talk and hear. The employee is frequently required to use their hands to handle or feel objects, tools, and controls. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.
15. May include shift work.
16. May be asked to participate in Emergency Response Operations on a voluntary basis, refusal is without prejudice. All volunteers will receive appropriate training.

Work Environment:

1. Frequently works in hot and cold environments, near operating machinery, heated and pressurized systems
2. Work may expose employee to fumes, airborne particles, coal dust, irritants, sensitizers, toxic or caustic chemicals and noise. Controls are used to bring exposure to within acceptable levels
3. Employee will be trained to use spill cleanup kits.
4. Use of emergency showers and eyewash stations may be required.

Integrated Safety Management:

1. Know and follow environment, safety, and health (ES&H) policies and procedures that apply to their job assignments.
2. Become knowledgeable of and maintain awareness of the ES&H hazards associated with their work. Perform work safely in accordance with hazard controls.
3. Report all unsafe operations, and, if necessary, exercise stop-work authority in cases of imminent danger.
4. Work only on those tasks in which they have the required competence, training, skills, and abilities so as to prevent injury to ones self, employees, the public, or the environment.
5. Maintain active involvement in the introduction, revision and/or promotion of ES&H/ISM program activities.

APPENDIX C

216 Plan

100% In-Network / 80% Out-of-Network
\$300/\$600 Out-of-Network Deductible

Lifetime Maximum	unlimited
Physician Office visits	\$15.00
Emergency Room Visit	\$35.00, waived if admitted
Hospital Expenses Inpatient/Outpatient	no co-pay
Diagnostic Services	no co-pay
Ambulance	no co-pay
Spinal Manipulations	\$15.00 20 visits/calendar year
Physical/Speech/Occupational Therapy	\$15.00 20 visits/calendar year
Durable Medical Equipment	no co-pay
Skilled Nursing/Home Health	no co-pay
Prescription Drug Program	\$10 generic \$20 brand \$35 non-formulary 31 day supply \$20 generic \$40 brand \$70 non-formulary Mail Order

REGISTER OF WAGE DETERMINATION UNDER THE SERVICE CONTRACT ACT By direction of the Secretary of Labor	U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION WAGE AND HOUR DIVISION WASHINGTON D.C. 20210
William W. Gross Director	Division of Wage Determinations
Wage Determination No. : CBA-2007-1012	
Revision No. : 0	
Date Of Last Revision: 1/18/2007	

State: Pennsylvania

Area: Allegheny

Employed on National Energy Technology Laboratory, Department of Energy contract for Research and Development Support Services.

Collective Bargaining Agreement between contractor: Parsons RDS Inc., and union: United Mine Workers of America Local 1914, effective 1/1/2006 through 12/31/2008 and amended on 1/1/2006.

In accordance with Section 2(a) and 4(c) of the Service Contract Act, as amended, employees employed by the contractor(s) in performing services covered by the Collective Bargaining Agreement (s) are to be paid wage rates and fringe benefits set forth in the current collective bargaining agreement and modified extension agreement(s).

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

**PARSONS RDS INC. (PRDS)
(Pittsburgh Site)**

AND THE

UNITED MINE WORKERS OF AMERICA

Local 1914

JANUARY 1, 2006, THROUGH DECEMBER 31, 2008

TABLE OF CONTENTS

<u>ARTICLE</u>		<u>PAGE</u>
I	Purpose	3
II	Scope and Coverage	3
III	Representation	4
IV	General Wage Provisions	6
V	Grievance Procedure	7
VI	Disciplinary Program and Discharge	9
VII	Discharge/Arbitration	10
VIII	Hours and Overtime	10
IX	Seniority	14
X	Holidays	17
XI	Personal Leave	18
XII	Leaves of Absence	19
XIII	Management's Rights	20
XIV	Periodic Conferences	21
XV	Bulletin Boards	21
XVI	Safety	21
XVII	New Equipment	22
XVIII	Successorship	22
XIX	No Strike No Lockout	22
XX	Temporary/Part-time Employees	22
XXI	Continuance of Employer Provided Apparel and Tools	23
XXII	Health Benefits	23
XXIII	Dental Plan	24
XXIV	Schedule of other Benefits	24
XXV	Term of Agreement	26
	Appendix A	27
	Appendix B	28
	Appendix C	42

ARTICLE I - PURPOSE

1. It is the intent and purpose of Parsons RDS Inc. ("PRDS" or the "Company") and the Union to establish, through this Agreement, the wages, hours of work, and conditions of employment about which the Company and the Union bargained for the Employees of the Company in the unit defined herein; to provide a procedure for processing disputes between the Company and the Union as to the interpretation and application of the provisions of this Agreement; and generally to govern the relationship between the Company and the Union and its members.
2. The Union recognizes the necessity to achieve efficiency in production and acknowledges that it is the further purpose of this Agreement to prevent interruptions of work and interference with the efficient operation of the Company's business. It is the intent and purpose of the parties to promote harmony between the Company, its Employees, and the Union for the efficient and successful operation of the Company's contract with the government so that the Employees and the Company may mutually benefit.
3. Except as specified in this Agreement, the Union and the Employees it represents are not waiving rights which exist under the National Labor Relations Act to bargain over Employees' wages, hours and working conditions. Nor do the Union and the Employees it represents waive any right to challenge any governmental action that would dictate a change in a term and condition of employment provided for under this Agreement.
4. The Company and the Union mutually agree not to discriminate in any way against any Employee with respect to hiring, compensation and terms or conditions of employment because of applicable laws relating to the disabled and Vietnam-era Veterans. Neither the Company nor the Union shall discriminate against any Employee on the basis of race, creed, national origin, gender, age, and political activity or otherwise.

ARTICLE II - SCOPE AND COVERAGE

1. The Company hereby recognizes the Union as the exclusive bargaining representative for the purpose of bargaining collectively as required by Section 8D of the NLRA with respect to wages, hours and other conditions of employment, for the Company's Employees regularly assigned to the following bargaining unit, all full-time and regular part-time Engineering Technicians I, II, III, IV and V, employed by the Employer at its Morgantown, WV and Pittsburgh, PA Facility on the Research Facility Operations Contract or any successor contracts.
2. Managers and Supervisors shall not perform bargaining unit work except in cases of emergency or Employee training/instruction.

ARTICLE III - REPRESENTATION

Section 1 - Representative

The Representative of the Union shall have access to the shops and office of PRDS. at NETL for the purposes of adjusting disputes, investigating working conditions, and ascertaining that the Agreement is being adhered to, providing there is no interruption of the Company's business and providing further that (a) the Union Representative notifies the Human Resources Representative in advance of any visit and (b) prior to entering any facilities under the control of the Company, the visiting representative reports to the Human Resources Office or the Operational Manager's Office in their absence.

Section 2 - Shop Stewards

The Company recognizes the right of the Union to designate one (1) Steward and one (1) Alternate.

- (a) The authority of the Steward so designated by the Union shall be limited to, and shall not exceed, the following duties and activities:
 - (1) The investigation and presentation of grievances in accordance with the provisions of this collective bargaining Agreement.
 - (2) The transmission of such messages and information as shall originate with, and are authorized by the Union or its officers.

Section 3 - Scope of Stewards' Union Activities

The Stewards' Union activities on Company time shall fall within the scope of the following functions:

- (a) To investigate a complaint or grievance and to present a complaint or grievance to an Employee's immediate manager in an attempt to settle the matter for the Employee or group of Employees who may be similarly affected.
- (b) To meet by appointment with an appropriate manager or other designated representative of the Company, when necessary, to adjust grievances in accordance with the Grievance Procedure of the Agreement.
- (c) The Steward shall be allowed to perform these duties during the Steward's working hours without loss of compensation. The performance of these duties shall be limited to a reasonable amount of time per shift.
- (d) The duties specified above shall not relieve the Steward of his/her duties, and obligations as an Employee of the Company, and he/she shall continue to be subject to all rules, regulations and procedures applicable to other Employees. The Steward shall notify his/her immediate manager before leaving the work area to conduct Union business.

Section 4 - Checkoff

The membership dues, including initiation fees, and assessments of the United Mine Workers of America and its various subdivisions, credit, voluntary COMPAC contributions and other voluntary deductions, the Union-sponsored group auto insurance, as authorized and approved by the International Union, United Mine Workers of America, shall be checked off the wages of the Employees by the Employers covered by this contract and shall be remitted by the Employers to the properly designated officers of the Union for distribution to its various branches. Such remittance shall be made within 30 days of the date such amount has been checked off. The Employer shall also submit an itemized statement showing the name of each Employee, his/her Social Security number, hours worked, and the amount checked off for dues, initiation fees, and assessments. Such itemized statement shall be made within 60 days of the date the check-off has been made, and shall include a list of Employees from whom dues, initiation fees and assessments have not been collected.

In order that this section may become effective and operate within the limitations of the Labor-Management Relations Act of 1947, the Union hereby agrees to furnish, with all reasonable dispatch to the respective Employers, and the Employers agree to aid, assist and cooperate in obtaining, written authorizations from each Employee so employed. Upon the presentation to the Employers of such authorizations in such reasonable form as time and circumstances may allow, said Employers shall make deductions so authorized and deliver the same to the designated District officer of the Union or to such authorized representative as may be designated by the Union.

Section 5 - Notification

The Union shall notify the Company of the amount of dues to be withheld by the Company, and shall advise the Company in writing at least two (2) months prior to any change in the amount to be withheld.

Section 6 - Membership

It is agreed that all Employees coming under the terms of this Agreement shall be required to make application to, and become members of, the Union within thirty (30) days of their employment. In the event an Employee does not become a member of the Union within the time frame prescribed above, the Union will approach management and request that the Employee be terminated from any employment which is covered under this Agreement. The Union agrees to hold the Company harmless from any action that may come about as a result of the application of this section.

ARTICLE IV - GENERAL WAGE PROVISIONS

Section 1 - Wage Rates

The hourly rates for Employees covered by this Agreement shall be as set forth in Exhibit "A". Wages shall be paid bi-weekly.

Section 2 - Shift Differentials

The Company shall pay a shift differential of 5% for the second shift and 7% for the third shift.

Section 3 - Out of Classification Work

When a qualified Employee is specifically assigned to and works independently for a period of three (3) hours or more in a higher job classification, the Employee will receive the rate of the higher classification for the duration of his/her performance of the job.

Section 4 - Temporary Assignments

Every reasonable effort shall be made to keep an Employee at work on the job duties normally and customarily a part of his regular job.

Section 5 - Schedule Changes

An Employee's schedule shall not be changed for the explicit purpose of avoiding overtime.

Section 6 - Tuition Refund

Tuition refund will be provided in accordance with PRDS's corporate policy at the time of this Agreement.

Section 7 - Educational Assistance

The Company agrees to provide reimbursement of lost wages and expenses for Employees attending and successfully completing courses offered by the Union and with prior approval by Company (e.g. Safety programs, labor management cooperative programs, etc.).

ARTICLE V - GRIEVANCE PROCEDURE

Section 1. All grievances that may arise will be handled in the following manner. Any written grievance must be filed within five (5) working days of the event given rise to the grievance. The five (5) days shall be considered from the time the grievant should have reasonably known of the grievance. In cases involving dismissals for cause, the grievance may be instituted at step three. In all steps, the grievant shall have the right to be present and at his/her request be accompanied by his/her Union representative.

Step 1 Prior to processing any written grievance, any Employee who believes he has a grievance must discuss it with his immediate manager, with the option of having his steward present. If the Employee is dissatisfied with the answer given by his manager or no answer is given within five (5) normal working days, Step 2 will be followed.

Step 2 The Employee and his steward shall present to the Human Resources Representative a written grievance form which has been approved by the Union and the Company stating what the grievance is and the remedy sought. If the Human Resource representative's decision is not acceptable, or is not given within five (5) normal workdays, Step 3 will be followed.

Step 3 The grievance shall be forwarded by the Union steward to the Operations Manager or his designated representative within five (5) normal workdays after the Human Resource Representative's unacceptable written decision, or failure to give a decision. The Operations Manager shall meet with the appropriate district representative or his designated representative within five (5) days of receipt of the grievance. If the Operation's Manager's decision is not acceptable or is not given within five (5) normal workdays, Step 4 will be followed.

Step 4 The Union may, no later than five (5) working days after receipt of the Company's decision in Step 3 submit the matter to arbitration by requesting that the Federal Mediation and Conciliation Service submit a list of five (5) names of arbitrators, from which the Company and the Union shall choose an impartial arbitrator to decide the matter. Following receipt of the list of names of arbitrators the parties shall then alternately strike the names from the panel and the name remaining shall be the Arbitrator in the case. The determination of which Party is to strike first shall be determined by a coin flip. Striking shall take place within seven (7) days of receipt of the arbitrators list.

Section 2

In arbitration proceedings, the expense of the impartial Arbitrator shall be shared by both parties. The parties will be responsible for paying their own representatives and witnesses.

Section 3

All arbitration hearings shall be held at a mutually agreed upon neutral location with the Company and the Union agreeing to equally share expenses incurred in the hearing room.

Section 4

The findings of the arbitrator shall be final and binding on all parties.

Section 5

All time limits stated in this article shall be treated as jurisdictional in nature and the failure to follow any of the set times limits shall result in the grievance being void and waived and the matter shall end without resort to arbitration. A normal workday is defined as any day on which a bargaining unit Employee is at work Monday through Friday, excepting holidays.

Section 6

Except by mutual written agreement to the contrary, only one grievance shall be taken to arbitration at any time before the same arbitrator.

Section 7

The impartial Arbitrator shall only have jurisdiction and authority to determine the meaning, application of, or compliance with provisions of this Agreement and shall not have jurisdiction or authority to add or detract from or alter in any way such provisions or any rules of discipline attached hereto.

Section 8

Time frames pursuant to discharge shall be commensurate with provisions of Article VII Section 1, Discharge/Arbitration of this Labor Agreement. In these cases arbitrators shall be selected immediately by the parties pursuant to Article V Section 1, Step 4 Grievance Procedure as it pertains to the Arbitrator selection process and the actual arbitration shall be held within seven days from the time it is referred to arbitration at Step 4.

Section 9

Time limitations may be waived by mutual agreement of both parties.

Section 10

The Company and the Union may refer grievances to non-binding mediation based on mutual consent.

ARTICLE VI - DISCIPLINARY PROGRAM AND DISCHARGE

Disciplinary Program

- 1.) No one may be disciplined or discharged without just cause. Discipline will be applied without discrimination on account of race, color, religion, gender, age, or national origin, disability or veteran's status. The procedure will be carried out uniformly in accordance with the following steps:

- | | |
|---------------------------------|--|
| <u>1. First Offense</u> | Verbal warning, record on file with Manager and Local Steward. |
| <u>2. Second Offense</u> | Written warning with record on file with the Human Resource Office, copy given to the Local Union Steward. |
| <u>3. Third Offense</u> | Two working days off without pay, record on file with the Human Resources Office, copy to the Local Union Steward. |
| <u>4. Fourth Offense</u> | Discharge |

In case of serious offenses, which affect customer relations (and thus jeopardize the jobs of fellow workers), or which could result in unlawful treatment, injury or death, to the Employee, fellow workers, or the public, the Employer shall have the right to bypass any or all of the progressive discipline steps and may discipline or discharge the Employee immediately subject to the arbitration procedure. These offenses shall include, but shall not be limited to the following;

1. Possession, use, sale or distribution of illegal substances and/or intoxicating beverages on the work site.
2. Bringing firearms or other weapons on the job.
3. Intentional theft of Government, Employer or Employee property.
4. Intentional destruction of Government, Employer or Employee property.
5. Intentional fraudulent activity.
6. Intentional falsification of Government or Company documents.
7. Sexual harassment.

Disciplinary actions will remain in an Employee's personnel file for a maximum period of one year unless otherwise designated by the Company.

Section 11 - Attendance Control

Excessive use/abuse of absenteeism or tardiness increases costs, creates an undue hardship on fellow Employees and limits ability to effectively plan and accomplish customer goals. Any Employee requesting time off must have prior approval of their manager. An unexcused absence is an absence that does not have prior approval of management or an absence without sufficient and appropriate documentation upon return to work. Employees absent for three (3) consecutive working days without a valid excuse or proper authorization may be considered to have voluntarily quit. Otherwise, the policy toward absenteeism will be as follows:

- 1.) Unexcused absence or tardy / first occurrence / Verbal warning.
- 2.) Unexcused absence or tardy / second occurrence / Written warning.
- 3.) Unexcused absence or tardy / third occurrence / 3 day suspension.
- 4.) Unexcused absence or tardy / fourth occurrence / Termination.

All disciplinary actions will remain in the Employee's personnel file for a period of one year.

ARTICLE VII - DISCHARGE/ARBITRATION

Section 1 - Discharge

In cases of Discharge, the Company shall notify the Local Union President and/or Union stewards of the discharge and its reason for such action in writing within two (2) working days. An Employee who claims he/she has been discharged without just cause must notify the Union within two (2) working days following the discharge. Notice that a discharge is being grieved must be made to the Company, in writing by the Union, within five (5) working days from the date of discharge. Discussions between the Company and the Union Representative concerning the discharge shall be considered Step 3. If not settled in Step 3, all discharges will be called in for immediate Arbitration.

ARTICLE VIII - HOURS AND OVERTIME

- Section 1.** When a shift is needed to respond to customer need, the Company will provide notice of a shift change to affected Employees no later than 2:00 p.m. Thursday in the week prior to the proposed shift change.

Section 2. A negotiated overtime distribution policy and overtime tracking roster will be posted on the appropriate bulletin boards.

Section 3. The workday shall begin at 12:01 a.m. and shall end at 12:00 midnight. The third shift, which normally begins at 11:00 p.m., will be considered the first shift of the following day.

Section 4. For payroll purposes the work week shall begin at 12:01 a.m. Saturday and shall end at 12:00 midnight the following Friday.

Section 5. Regular Work Week

The regular work week for Employees will consist of five (5) workdays during the period Monday through Friday, with two (2) consecutive days off (Saturday and Sunday), except for shift work which may be five (5) consecutive workdays during the period Monday through Sunday with two (2) consecutive days off.

Section 6. Regular Workday

The regular workday for Employees will consist of an eight (8) hour workday including one-half (1/2) hour unpaid meal and two (2) 15 min. paid break periods. For Employees working a Regular Work Week, work in excess of eight (8) hours shall be paid at time and one half. First shift shall be 7:00 a.m. until 3:00 p.m. Second shift shall be from 3:00 p.m. till 11:00 p.m. Third shift shall be 11:00 p.m. until 7:00 a.m.

Section 7. Overtime Distribution Policy

a) Purpose

The Company will make every reasonable effort to divide work among the Employees by classification and shift as impartially as is practicable. In doing this, it is recognized that the Company will take into account the qualifications of Employees for the job to be performed and efficient operation.

b) Procedures

Step 1 In assigned overtime, Employees shall perform the overtime work required. Employees actively working the task requiring overtime shall perform the overtime work required. In the event of extenuating circumstances an Employee is unable to perform overtime work assigned, the overtime assignment shall be referred to the overtime distribution list for equitable distribution.

Step 2 Employees will be selected for the overtime on the basis of the lowest overtime credited hours, provided they are qualified to perform the work.

Step 3 The necessity for the Company to work overtime to provide rapid response to emergencies is recognized in order to meet customer service

requirements. It is expected that Employees will continue to cooperate in working overtime for the Company's and Employee's best interests. If there is an insufficient number of Employees to perform the required work, Employees will be selected on the basis of their ability to perform the job in the reverse order of seniority. The least senior qualified person will be required to perform the needed work.

c) **Scheduled Overtime**

Employees who do not want to be considered for overtime work will declare that fact and it will be so designated by the Manager. Overtime will not be tracked for that Employee. If these Employees desire to return to the distribution of overtime, they will be credited as having the highest overtime, plus one hour, in their classification.

d) **Emergency Overtime**

Emergency overtime will be equitably distributed when possible. Emergency overtime will be recorded separately, but included in the total overtime hours.

e) **New Hires**

On the hire date, new Employees will be credited with the highest overtime hours, plus one hour in the classification for distribution purposes.

f) **Record Keeping**

A written record of overtime worked by Employees will be maintained by the Employee's Manager. The overtime record will indicate the Employee's name and the date. Employees will be credited with overtime worked by recording the actual number of overtime hours worked. Employees unable to work overtime, when requested, shall be deemed to have worked the overtime hours actually worked on the task for distribution of overtime purposes.

Should the Company and the Union determine that an Employee was improperly denied overtime opportunities, the Company shall provide the Employee with future available scheduled overtime, provided the Employee is qualified for the job to be done and it does not disrupt efficient operation.

g) **Time Sheets**

This policy is for distribution of overtime hours worked. For pay purposes, overtime hours are the hours recorded on the time sheet.

h) Implementation of Policy

To begin the overtime distribution process the Company will provide a report of year-to-date overtime worked. These hours will be transferred to an Overtime Distribution Record form.

Section 8 - Four-Ten Hour Shift

The Company may elect four/ten hour work shifts, either Monday through Thursday or Tuesday through Friday in order to meet the customers' needs. The Union and affected Employees will be given five working days notice prior to the commencement of the shift. The four/ten shifts will originally be established on a volunteer basis. If there are more volunteers than needed the Employees with the most seniority will be awarded the four/ten's provided they have the necessary skills to perform the job. If there are not enough Employees volunteering, the Employees with the least seniority will be required to work the four/ten's provided they have the necessary skills to perform the job. On this four/ten shift Employees will be paid time and one half of their straight time hourly rate for all hours in excess of ten (10) hours per day and forty (40) hours in a week.

Section 9 - Altered Work Schedule (AWS)

The Company may assign Employees an altered work schedule (AWS) consisting of eight (8) hours between the hours of 6:00 a.m. and 6:00 p.m. to meet customer requirements. At least three (3) days notice must be given before a new schedule is implemented. Employees may request an AWS outside of the normal work hours/days for personal needs. The AWS must ensure that customer support is maintained.

Section 10 - Overtime Calculations and Premium Days

- a. Time worked on Saturday and Sunday shall be paid at time and one-half (1-1/2) of the Employee's rate, and time worked on Holidays shall be paid at two and one half (2 ½) times the Employee's rate.
- b. Holidays and personal leave shall be included as time worked for the purpose of calculating overtime.
- c. There will be no "pyramiding" of overtime allowed.

Section 11 - Call Out Pay

An Employee called back to work after having completed his/her regular shift and gone home, shall receive a minimum of four (4) hours at their straight time rate of pay or pay for actual hours worked whichever is greater.

Section 12 - Show Up Pay

An Employee reporting for work at his regular scheduled starting time and for whom no work is provided, shall receive three (3) hours show up time unless

notified by the Company at least three (3) hours prior to their regularly scheduled starting time not to report to work.

Section 13 - Administrative Leave

When the site is closed due to weather or other catastrophic reasons, Employees will receive administrative leave only when reimbursement is allowed by the DOE.

ARTICLE IX- SENIORITY

Section 1. – Seniority

- a) Site seniority is defined as a Bargaining Unit Employee's continuous service at the site with PRDS and all predecessor employers.
- b) Bargaining unit seniority is defined as a bargaining unit member's continuous service earned under this Labor Agreement or predecessor Labor Agreement.
- c) The Company shall supply the Union with a job classification and site seniority list of the Employees covered by this Agreement. Such list(s) shall be revised annually.
- d) A probationary period of ninety (90) days will be observed for each new Employee during which time the Company will make specific and periodic evaluations of the Employee's qualifications, skills and abilities. During this probationary period, an Employee shall be considered as having no seniority rights, provided that upon completion of the probationary period, an Employee shall be entitled to seniority rights as measured from an Employee's employment date. During the probationary period, a new Employee may be discharged in accordance with Company Policy and procedure without recourse to the grievance procedure.

Section 2. – Layoff

The Company will determine the time of layoffs and the number of Employees to be laid off and in what job classifications layoffs will occur.

- 1) If a layoff should occur, the Union shall be notified at least two (2) weeks in advance. Such layoffs shall be made by bargaining unit seniority within the job classification affected. Should bargaining unit seniority within a job classification be equal, then site seniority shall be the determining factor as to who shall be laid off first. Should bargaining unit seniority and site seniority of the affected Employees be equal, then the determining criteria for breaking the tie shall be a flip of the coin with the Employee losing the coin flip being scheduled to be laid off.

- 2) An Employee scheduled to be laid off within any classification may use his/her bargaining unit seniority to bump a less-senior bargaining unit Employee who holds a classification for which he/she is qualified. If bargaining unit seniority is equal, then site seniority shall be used as the tiebreaker. Recall to employment from layoff shall be in reverse order of the layoff.
- 3) In the case of a layoff, probationary Employees shall be laid off first.
- 4) If at the time of layoff, any eligible Employee refuses to exercise their seniority right to bump less senior Employees within the active workforce, such Employee shall continue to retain seniority rights to be recalled. Any Employee scheduled to be laid off must notify the Company of an intention to exercise his/her seniority bumping rights within two (2) working days of the layoff notice. An Employee displaced in the bumping process may similarly exercise his/her seniority rights to displace another Employee in accordance with the same criteria.

Section 3 - Termination of Seniority

An Employee's seniority shall be terminated and his/her rights under this Agreement forfeited for the following reasons:

- (1) Discharge for just cause, quit, retirement, or resignation;
- (2) Failure to give notice of intent to return to work after recall within five (5) working days, or failure to return to work on the date specified for recall. An excuse from a medical doctor, leave secured by statute or a covered contractual situation, shall exempt an Employee from this return to work requirement. However, such circumstances must be communicated to the Employer within the five (5) day period outlined above.
- (3) Time lapse of eighteen (18) months, or for a period equal to the Employee's seniority (whichever is less) since the last day of actual work for the Company.
- (4) Failure to return to work upon expiration of a leave of absence;
- (5) Absence in excess of one (1) year due to physical disability; except where such absence is due to compensable disability incurred during the course of such employment, such absence shall not break continuous service, provided that such individual has returned to work within a seven (7) calendar day period after final payment of statutory compensation for such disability or after the end of the period used in calculating a lump sum payment. Upon return to work from a period of Disability, the Employee must present appropriate documentation verifying their availability date and medical release.

Section 4 – Recall

a) Order of Recall

If the Company determines to fill job vacancies, such vacancies shall be filled through the job posting and selection process from the active workforce first. All excess vacancies, not filled through this bidding procedure, or left vacant as a result of the bidding process shall be filled from the laid off panel of Employees awaiting recall who have the seniority and the qualifications to return to work and assume the job vacancy that is open. Such Employees, eligible for recall, shall be recalled in reverse order of layoff using seniority and qualifications to perform the duties of the job vacancy as the criteria for recall.

b) Notice to Recall

The Company will forward a notice of recall by certified mail to the last known address of the Employee reflected on records. The Employee must, within five (5) working days of delivery or attempted delivery of the notice of recall, notify the Company of his/her intent to return to work on the date specified for recall and thereafter, return to work on such date.

Section 5 - Job Posting

When the Company determines to fill a job within the Bargaining Unit, the Company will put a notice of the vacancy or job opening on the Employee bulletin boards for five (5) workdays. Subject to the provisions elsewhere in this Agreement any Employee may submit a bid for the job to the Human Resources Office in writing, during the posting period. The Company shall not be required to post a notice of vacancy or job opening for a particular job more than once every sixty (60) days. Any bid submitted within a posting period shall remain valid for sixty (60) days. If the Employer does not fill the job that is bid within 60 days, regardless of the reason, and later decides to fill that vacancy, the bid must be reposted before the job can be awarded.

Section 6 - Selection

From among Employees qualified for a posted job, who submit bids for the job, the Company will award the job to the most senior/qualified Employee. Provided that if two or more bidders have the same bargaining unit seniority, the Company will award the job to the Employee with the greater site seniority. If no Employees qualified for the posted job submit bids for the job, or no one from the recall panel is eligible to fill the vacancy, the Company may fill the job from any source.

Section 7 - Restriction on Bidding

An Employee who is awarded a job for which he/she bid, must accept it. If, immediately prior to being awarded a posted job, the Employee's designated job

classification was the same as or higher than the posted job, the Employee may not bid for another job for a period of twelve (12) months after being awarded the job.

Section 8 - Disqualification of a Bidder

An Employee who is unable to perform the job to which he/she bid to the satisfaction of the Company within thirty (30) workdays after being awarded the job shall be returned to the job classification he/she held at the time of submitting the bid.

Section 9 - Qualifications

It is agreed that the Company is the sole and exclusive agent to determine the qualifications, skills and abilities of all Employees.

ARTICLE X - HOLIDAYS

Section 1 - Holidays Celebrated

The following days shall be paid holidays for the purpose of this Agreement:

1. New Year's Day
2. President's Day
3. Martin Luther King Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Columbus Day
8. Veteran's Day
9. Thanksgiving Day
10. Christmas Day

Holidays that fall on Sunday will be observed on the following Monday and
Holidays that fall on Saturday will be observed on the preceding Friday.

Section 2 - Eligible Employees

To be eligible for Holiday pay, an Employee must be on the active payroll of the Company, and be in a compensable state on the day before and the day after the Holiday.

Section 3 - No Work on the Holidays

An Employee who is not required to work on the day observed as a Holiday shall receive eight (8) hours pay at his/her straight-time rate of pay, plus shift differential if applicable.

Section 4 - Work on the Holiday

An Employee who is required to work on the day observed as a Holiday shall receive time and one-half (1 1/2) times his/her straight time hourly rate for all hours actually worked on that day, in addition to eight (8) hours pay at his/her straight time rate of pay plus shift differential if applicable.

Section 5 - Holiday During a Personal Leave Period

If a Holiday occurs during the scheduled vacation of an eligible Employee, the Employee will not be charged a personal leave day for the Holiday and the observed Holiday shall be paid as Holiday pay.

ARTICLE XI – PERSONAL LEAVE

Section 1. Personal Leave

<u>Years of Full Time Service</u>	<u>Accrual Rate</u>
Less than two years	12 days
Two to five years	15 days
Five to ten years	18 days
Ten to fifteen years	21 days
Fifteen to twenty years	24 days
Over twenty years	27 days

- a) All full-time regular Employees in active payroll status (i.e., not on WC, A&S, or LWOP) for a minimum of fifteen days during the month shall accrue a prorated amount of personal leave based on the schedules above. Employees will accrue personal leave based on years of full-time service. Personal leave may be taken in thirty (30) minute increments.
- b) Employees may carry over a maximum of 288 hours of personal leave from one calendar year to the next. All personal leave above the maximum carry over will be paid to the Employee in the second payroll of January in the following year. All unused personal leave at the time of termination will be paid to the Employee in the final paycheck following termination.
- c) Employees will begin to accrue leave at the higher rate beginning with the first pay period of the month after the Employee completes the number of years of service required for the higher rate.
- d) Employees desiring to take personal leave must submit the request to his/her manager by 9:00 a.m. the day before leave is desired. Leave will be granted on a first come first serve basis. In some cases where submittals are made at the same time and only one Employee is allowed off due to the need to meet customer requirements, the situation will be determined by seniority. In cases of

emergency or illness, same day requests for personal leave must be made to the Employee's manager for approval at least thirty (30) minutes prior to the Employee's scheduled start time.

Section 2 –Catastrophic Leave

Employees will continue to accrue 2 hours of catastrophic leave per month into their leave account. Current catastrophic leave accumulation will be carried forth into this Agreement. Leave balances will be carried over from one year to the next. Leave usage will be in accordance with Company policy which shall be revised in consultation with the Union.

ARTICLE XII - LEAVES OF ABSENCE

Section 1 - Bereavement Pay

When death occurs in an Employee's immediate family (spouse, mother, father, mother-in-law, father-in-law, son, daughter, brother or sister, step-father, step-mother, step-children, step-brother or step-sister, grandfather, grandmother and grandchildren), an Employee upon request will be excused for up to three (3) consecutive days to include the day of the funeral. Upon the approval of Human Resources, an Employee may reserve one of the days for estate affairs at a later date. The Employee shall receive pay at his/her regular rate, provided it is established that he/she attended the funeral.

Section 2 - Severance Pay

An Employee who is terminated shall be paid one week's pay per year of Service up to a maximum of eighteen (18) weeks (minimum of 1 week will be paid).

Section 3 – Jury Duty

An Employee who is called for and who performs jury duty or who is subpoenaed to appear in court as a witness will be compensated by the Company for the difference between payment received for such compulsory jury duty or compulsory court appearance and the payment the Employee would have received for straight time hours they thereby lose from a normal work schedule computed at the Employee's established hourly base rate as long as the Employee is not party in the legal action.

In order to be paid by the Company for such leave, the Employee must submit to the Human Resources written proof of having served, and the duration of such service.

Section 4 - Military Service

Regular full-time Employees who are members of a military reserve organization and are ordered to temporary training duty are paid the difference for which their straight time pay exceeds their military pay, excluding travel allowances. Payment

is made for up to ten days of training in any calendar year. In support of this payment, Employees must furnish Human Resources a copy of their orders along with a voucher from their paymaster as soon as practical following their training

Section 5 - Union Business

Employees who have an official request for a leave of absence shall be granted leave to participate in Union activities. Unless otherwise allowed by the Employer, no more than two leave requests will be granted for Union activities on any given day.

ARTICLE XIII - MANAGEMENT RIGHTS

The Union recognizes that the Company retains the sole right to manage its business, as such right existed prior to the execution of this Agreement except only as expressly abridged by a specific provision of this Agreement. The Company reserves and retains, solely and exclusively, all of its inherent rights to manage the business including but not limited to:

1. The direction of the working force including the right to hire and decide the number of Employees required and to make rules governing the conduct of the working force which will be applied in a reasonable fashion.
2. Determine work methods and procedures, and to issue, amend and revise policies, rules, regulations, and practices.
3. Require all Employees to observe all safety regulations prescribed by the Company and/or the Government and to work safely.
4. Discharge, suspend, or discipline Employees for just cause.
5. The Company may, if it desires, maintain a variety of skills within its group of Employees to be prepared to have skills and/or supervision for any type of work that may arise.
6. The Union understands the extreme importance of keeping operating equipment, units, and facilities running at all times. The Union also understands that the loss of production and the cost of repairs together create a great loss to Government. Therefore, the Union will encourage and advise the Employees to exhaust every effort, ways and means to perform work of good quality and quantity. The Company and the Union recognize the necessity for eliminating restrictions and promoting efficiency and agree that no rules, customs or practices shall be permitted that limit production or increase the time required to do the work, and no limitation shall be placed upon the amount of work which an Employee shall perform, nor shall there be any restrictions against the use of any kinds of machinery tools or labor-saving devices.

7. It is understood by the Company and agreed to by the Union, that the Employees of the Company will perform the work requested by the Company without having any concern or interference with any other work performed by any Employees who are not covered by this Agreement doing non-bargaining unit work.
8. The Company's failure to exercise any right, prerogative, or function in a particular way, shall not be considered a waiver of the Company's right to exercise such right, prerogative, or function or preclude it from exercising the same in some other way not in conflict with the employees provision of this Agreement. In exercising its rights under this Article, the Company shall not violate the provision of this Agreement.

ARTICLE XIV - PERIODIC CONFERENCES

The parties recognize for their joint benefit, the prosperity and efficiency of the Company are dependent upon their ability to work cooperatively. In order to achieve this, the parties agree to meet periodically, but not less than three times per year, to discuss items of mutual interest. The Company shall designate three (3) representatives and the Union shall designate three (3) representatives to participate in the conference. Union representatives that are the Employees of the Company shall be compensated at their applicable straight time rate for their time spent in conference.

ARTICLE XV - BULLETIN BOARDS

The Employer will provide a bulletin board or bulletin boards for the use of the Local Union on the property that are in conformity with government regulations and which provide reasonable access by the Union membership to information that the Union wishes to communicate.

ARTICLE XVI - SAFETY

Section 1.

The Company will comply with all applicable health and safety laws and regulations and the Company and all Employees agree to cooperate toward the objective of eliminating accidents and health hazards. The Company will continue to make reasonable provisions for the safety and health of its Employees during the hours of their employment. The Union agrees that the Company may terminate any Employee covered by this Agreement who intentionally exposes him/herself or any individual to unsafe acts, which could result in serious bodily harm. All Employees must immediately report any work-related injury, as per site policy. An Employee may not be discriminated against for following this procedure.

Section 2.

The Company and the Union agree to establish a quarterly meeting to cooperate in the elimination of unsafe and hazardous conditions and the improvement of the safety record. The committee will consist of three (3) representatives from management and three (3) representatives from the Union.

Section 3.

All Employees will follow the Company's Safety Operating Policies and Procedures as well as NETL's Environmental Safety and Health Program. Copies of these policies and programs will be available to all Employees on the Local Area Network (LAN) and in the Company's office of Environmental Safety and Health (EH&S). Any new Safety policies and/or procedures established by the Company shall be posted on the bulletin boards.

Section 4.

District and/or International Representatives requesting access to the site to discuss safety matters/incidents with management personnel shall be granted access subject to the routine check in/out procedures.

Section 5.

In cases involving major accidents or fatalities of bargaining unit Employees, the Union steward will be allowed to participate in the Company's investigation of the incident.

ARTICLE XVII - NEW EQUIPMENT

In the event that new equipment or devices are introduced and are to be operated or maintained by bargaining unit personnel, the Company agrees to provide training on such equipment on an as needed basis. The Employees and the manner in which they are trained, will be determined by the Company.

ARTICLE XVIII - SUCCESSORSHIP

The provisions of this Agreement shall be binding upon and to the mutual benefit of the Parties thereto, and to their successors and assigns, except as may otherwise be provided by applicable law or federal regulations.

ARTICLE XIX - NO STRIKE - NO LOCKOUT

1. The Company agrees there will be no lockout of the Union or of Employees represented by the Union during the term of this Agreement.
2. The Union, collectively, and the Employees covered by this Agreement, agree they will not call, engage in or sanction any strike during the term of this Agreement.

ARTICLE XX - TEMPORARY/PART TIME EMPLOYEES

No one may be retained in a temporary or part time capacity while any full-time Employee is on layoff. Temporary/part time Employees may never exceed fifteen percent (15%) of the full time classified workforce even when there is no reduction in force/layoff. Temporary Employees with an anticipated employment of less than six (6)

months will receive \$1.65 per hour in lieu of benefits. Part-time Employees will receive \$1.65 per hour in lieu of benefits. Temporary Employees shall not be employed for more than six (6) consecutive months.

ARTICLE XXI - CONTINUANCE OF EMPLOYER PROVIDED APPAREL AND TOOLS

The Employer agrees to continue the practice of providing Employees with certain wearing apparel, tools and safety devices including, but not limited to, steel toed boots and shoes, uniforms, safety glasses, gloves, and other items previously provided to the Employee for his or her use in carrying out their duties. In the event that the government, for whatever reason, decides to discontinue certain programs that provide any of these items the Union will immediately negotiate with the Employer with respect to the impact that such changes have had on it's membership.

ARTICLE XXII - HEALTH BENEFITS

Section 1 - Health Care

Plan general outline attached as Appendix "C", 216 plan. Plan carrier is at the discretion of the Employer, but changes in the level of benefits are subject to collective bargaining.

(a) First Full Year of the Agreement - January 2006 to December 31, 2006

Health care rates shall be set at:

Pittsburgh:
\$148 per month for full Family coverage
\$128 per month for Employee & Spouse coverage
\$115 per month for Employee and Child coverage
\$48 per month for Single coverage

(b) Second and Third Full Year of the Agreement - January 2007 to December 2008

In the event that health care costs increase, the Employer and Employees shall share the cost increase, such that the Employer shall pay eighty-five percent (85%) of the cost increase and Employees shall pay fifteen percent (15%) of the cost increase.

Section 2 - Waiver of Health Care Benefits

Employees may opt to waive health insurance coverage and receive a waiver paid on a bi-weekly basis. Employees must furnish proof of other health coverage to qualify for the waiver. Employees may receive the following:

Individual - \$650.00 per year Family - \$650.00 per year

Article XXIII - DENTAL PLAN

The Dental Plan currently in effect will continue with a rate of \$15.00. Such rate shall continue for the life of this Agreement.

ARTICLE XXIV - SCHEDULE OF OTHER BENEFITS

Section 1 - Life Insurance and AD&D

The Company will provide Life insurance as currently stated in the PRDS policy, equal to two (2) times the Employee's annual salary rounded up to the next thousand dollars. The Company will also provide AD&D as currently stated in the PRDS policy, equal to two (2) times the Employee's annual salary rounded up to the next thousand dollars. The rates for dismemberment/loss of sight etc. will also follow the current PRDS policy.

Section 2 - Long Term Disability

Employees may participate in the Company's Long Term Disability (LTD) Insurance Program as described in the PRDS LTD policy.

Section 3 - Retirement/401K Savings Plan

The Employer agrees to establish for each represented Employee an individual 401K Savings and Investment Plan. The Plan shall be established and handled by a reputable investment company and administered by them under arrangements with the Employer pursuant to the following:

1. The 401K Savings and Investment Plan will be funded on behalf of each Employee covered under the terms of this Agreement with respect to one or both of the following avenues;
 - (a) Employer contributions only up to a certain yearly maximum.
 - (b) Combination of Employer contribution up to a certain yearly maximum and Employee contribution for each Employee dollar set aside into the 401K savings and Investment Plan.
2. The Employer will be responsible for putting into an Employee's account the amount of fifty cents (\$.50) for each hour worked in a given year up to a maximum of one thousand dollars (\$1000) per contract year. This contribution by the Employer shall be made without respect to any contributions made by the Employee.
3. In addition to the contributions made by the Employer under (2) above, an Employee may elect to set aside a portion of his/her pay each pay period to also be placed into their 401K Savings and Investment Plan.

- (a) Should the Employee choose to apply a portion of his/her pay as outlined in (3) above, the Employer, in addition to the contributions outlined in (2) above will also contribute fifty-five cents (\$.55) for every dollar set aside by the Employee up to six (6) percent of his/her salary.
4. The Employer agrees that it will bear the costs associated with the fees charged by the financial advisors who are handling the 401K Savings and Investment Plan for the Employer pursuant to this Agreement.
5. The 401K Savings and Investment Plan shall offer a diverse selection of investment vehicles in which an Employee may choose to invest his/her monies.
6. A year within the Plan outlined herein will run from anniversary date to anniversary date of the effective date of this collective bargaining Agreement.

Section 4 - Dependent Life Insurance Plan/Supplemental Life Insurance Plan

Employees may participate in the Dependent/Supplemental Life Insurance Program as described in the PRDS policy.

Section 5 - Accident & Sickness/Short Term Disability

The Company will provide A&S insurance as stated in the current PRDS policy, equal to two-thirds (2/3rds) of the Employee's weekly base rate up to a maximum of eight hundred (\$800) dollars per week.

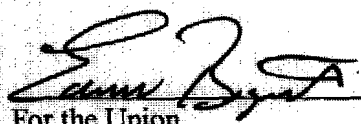
Section 6 - Awards Fees Distribution

Bargaining unit members shall participate in twenty-five (25%) percent of the Awards Fees Distribution program.

ARTICLE XXV - TERM OF AGREEMENT

This Agreement shall take effect January 1, 2006, and shall remain in effect through December 31, 2008 and shall continue in effect from year to year thereafter, unless changed or terminated. Either party desiring to change or terminate this Agreement must notify the other in writing at least sixty (60) days prior to January 1, 2009.

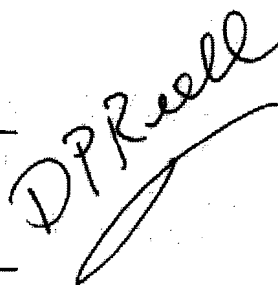
IN WITNESS WHEREOF, each of the parties signatory hereto has caused this Agreement to be signed this 29th Day of December, 2005.



For the Union



For the Employer



12/29/2005

Date

12/29/2005

Date

APPENDIX A

Wages

1. On January 1, 2006, all Employees covered by this contract shall receive a sixty-five cent (\$0.65) increase in their wages.
2. On January 1, 2007, all Employees covered by this contract shall receive a sixty-five cent (\$0.65) increase in their wages.
3. On January 1, 2008, all Employees covered by this contract shall receive a sixty-five cent (\$0.65) increase in their wages.

<u>Classification</u>	<u>1/01/06</u>	<u>1/01/07</u>	<u>1/01/08</u>
Tech I	\$17.92	\$18.57	\$19.22
Tech II	\$19.54	\$20.19	\$20.84
Tech III	\$21.93	\$22.58	\$23.23
Tech IV	\$24.38	\$25.03	\$25.68
Tech V	\$27.23	\$27.88	\$28.53

APPENDIX B

MEMORANDUM OF UNDERSTANDING BETWEEN PRDS AND UMWA

LOCAL 1914

11/30/00

1. Engineering Technician I (ET-1) and Engineering Technician (ET-2) will follow the agreed upon advancement timeline

ET-1 to ET-2

Advancement to ET-2 will be based on one calendar year of satisfactory job performance. Unsatisfactory performance must be documented and may delay advancement. Job performance will be evaluated quarterly and the individual will be counseled.

ET-2 to ET-3

Advancement to an ET-3 will occur after the individual has five years of satisfactory site experience. Previous experience/education can be substituted for up to one year of site experience. Unsatisfactory job performance must be documented and may delay advancement. Job performance will be evaluated quarterly and the individual will be counseled.

Any delay in advancement under this item may be challenged pursuant to Article 5, Grievance Procedure of the Collective Bargaining Agreement.

ET-3 to ET-4

Advancement to an ET-4 will occur after the individual has 20 years of satisfactory site experience.

2. Any level technician can work independently on tasks within his job description, for which he is qualified, with periodic instruction and/or guidance from higher level technicians or supervisors. No technician on any level requires constant supervision.
3. Any technician can train, instruct and provide guidance, in any area that he is qualified, to other technicians.
4. Field fitting and dimensional changes do not constitute design.
5. A group of two or more technicians at any level can work together as a team on tasks that they are competent to perform. The higher-level technicians can/should provide guidance to the team. A lower level technician can work as a helper with a higher level technician on tasks in the higher level.
6. ET-1 and ET-2 may be assigned higher level work for the purpose of training and qualification for advancement. Once an ET-3 and above has documentation of qualification, the work performed constitutes out of classification work within the guidelines of the contract.
7. The Company and the Union agree that training programs should be instituted to give all employees the opportunity to increase their value to the company and the customer.

The number of ET- 4 & 5 positions required is based on the operational needs and skill levels required as determined by management, except as noted in #1 above.

Pittsburgh Position Descriptions

Title: Engineering Technician 1

11/30/00

Minimum Position Knowledge, Skills, and Abilities Required:

High School diploma/GED or equivalent, and no job-related experience. Good communication and analytical skills.

Purpose and Scope:

Under guidance/training from a higher level technician or supervisor or using detailed procedures/work instructions, performs simple and routine tasks or tests within, but not necessarily limited to a prescribed area of expertise. Work is checked in progress or on completion. Periodically, technician is assigned work above classification for the purpose of using experience gained for future assignments and advancement opportunities. Duties will be varied.

Responsibilities and requirements can vary between operating and support groups.

The bullet items listed below are examples of skills that may be required:

1. Assemble or install equipment or parts requiring simple wiring, soldering, or connections, such as:
 - Install conduit, pull wire and terminate wire
 - Replace fuses, CB, overloads, electrical devices
 - Mount transmitters, thermocouples and gauges
 - Fabricate panels and assemble control bays
2. Perform simple or routine tasks or tests, such as tensile or hardness test, sample grinding, or sieve analysis, such as:
 - Transferring coal/or other bulk solids
 - Perform bulk density, crush strength and attrition testing
 - Prepare feedstocks (mix, blend)
 - Fill and weigh drums
 - Painting, labeling
3. Operate and adjust simple test equipment, and record data, such as:
 - Calibrate instruments such as gauges, balances and sensors as qualified
 - Operate Digital Voltage Meter
 - Use calipers and torque wrenches
4. Gather and maintain specified records of engineering data, such as:
 - Test data sheets, drawings, MSDS, P&ID's
 - Data log books
 - Perform Inventories
5. Perform computations by substituting numbers in specific formulas, such as:
 - Iso kinetic sampling and calculations
 - Release analysis, moisture analysis, water quality analysis
 - Engineering units conversion

- Simple electrical calculations
- 6. Assist with the installation, fabrication, modification, and operation of test equipment used on special projects, such as:
 - Operate portable power tools (drills, saws, grinders, etc.)
 - Operate pipe threader, drill press, band saws, lathe, jig saw and other stationary equipment
 - Install tubing, piping, gauges, valves and fittings
 - Operate oxy-acetylene torch
- 7. Perform routine facilities maintenance and repair and support higher level technicians in performing non-routine facilities maintenance and repair.
- 8. Perform other position related duties as assigned or requested.

Physical and Mental Demands:

1. Be able to read, write, and perform simple mathematical calculations.
2. Use step and sectional ladders
3. Use various types of respirators, to include self contained breathing units.
4. Personal protective equipment such as safety glasses, safety toe shoes, hard hats, lab coats, hearing protection, face shields, and gloves may be required. Requirements will vary depending on the area and type of work performed.
5. Overhead or lift-bucket work maybe required. Safety harnesses will be worn.
6. Work in a confined area may be required.
7. Operation of motor vehicles including forklifts may be required.
8. Vision requirements include the ability to focus and depth perception
9. The ability to respond to visual and audio alarms is required.
10. Able to routinely lift and move twenty-five pounds, occasionally lift or move forty pounds, and transfer manually fifty pound containers
11. Hand eye coordination is required.
12. Operate cranes and hoists
13. Will be trained in basic first aid and rescue
14. While performing his job, the employee is regularly required to stand, walk, extend hands and arms, and to talk and hear. The employee is frequently required to use their hands to handle or feel objects, tools, and controls. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.
15. May include shift work.
16. May be asked to participate in Emergency Response Operations on a voluntary basis, refusal is without prejudice. All volunteers will receive appropriate training.

Work Environment:

1. Frequently works in hot and cold environments, near operating machinery, heated and pressurized systems
2. Work may expose employee to fumes, airborne particles, coal dust, irritants, sensitizers, toxic or caustic chemicals and noise. Controls are used to bring exposure to within acceptable levels
3. Employee will be trained to use spill cleanup kits.
4. Use of emergency showers and eyewash stations may be required.

Integrated Safety Management:

1. Know and follow environment, safety, and health (ES&H) policies and procedures that apply to their job assignments.
2. Become knowledgeable of and maintain awareness of the ES&H hazards associated with their work. Perform work safely in accordance with hazard controls.
3. Report all unsafe operations, and, if necessary, exercise stop-work authority in cases of imminent danger.
4. Work only on those tasks in which they have the required competence, training, skills, and abilities so as to prevent injury to ones self, employees, the public, or the environment.
5. Maintain active involvement in the introduction, revision and/or promotion of ES&H/ISM program activities.

Title: Engineering Technician 2

11/30/00

Minimum Position Knowledge, Skills, and Abilities Required:

High school diploma/GED and vocational/technical training beyond high school or equivalent and at least three years of job-related experience, or one year satisfactory performance at an Engineering Technician 1 level. Refer to the Memorandum of Understanding dated 11/30/00 for specific details. Good communication and analytical skills and a working knowledge of computer systems and software application programs.

Purpose and Scope:

Under guidance/training from a higher level technician or supervisor, performs generally standardized tasks or tests involving a sequence of related operations, within, but not necessarily limited to a prescribed area of expertise. Follows standard work methods on recurring assignments, but receives explicit instructions on unfamiliar assignments. Technical adequacy of routine work is reviewed on completion; non-routine work may also be reviewed in progress. Will perform the essential responsibilities of lower level technicians and will instruct/train other technicians. Periodically, technician is assigned work above classification for the purpose of gaining experience for future assignments and advancement opportunities. Duties will be varied.

Responsibilities and requirements can vary between operating and support groups. The bullet items listed below are examples of skills that may be required.

1. Assemble or construct simple or standard equipment or parts, such as:
 - Assemble flow loop components for completion.
 - Construct project I/O hardware panels.
 - Install and fabricate tubing and piping runs per the P&IDs.
2. Service or repair simple instruments or equipment, such as:
 - Repair or replacement of pumps and motors used on research projects
 - Repair or replacement of thermocouples, gauges, switching devices, and valves.
 - Troubleshoot and repair or replacement of electrical devices and I/O hardware
3. Conduct a variety of tests using established methods, such as:
 - Perform leak and hydro testing procedures
 - Perform load testing on electrical circuits and panels
 - Perform water analyses for conductivity and hardness
4. Prepare test specimens, adjust and operates equipment, and records test data, such as:
 - Perform sizing analysis and generate size fractions for testing
 - Calibrate and adjust test instruments such as gauges, balances, sensors and pumps as qualified
 - Record data from project operations systems
5. Extract engineering data from various prescribed standardized sources, such as:
 - Retrieve data from project operations software
 - Retrieve and use data from P&IDs, Instrument Indexes, logic drawings
 - Retrieve data from material test data sheets and instrument certification sheets
 - Record data from preventive maintenance performed on equipment

6. Present the data in prescribed form, such as:
 - Organize data in tabular form
 - Perform sampling calculations
7. Perform a wide variety of duties in the installation, modification, and operation of test equipment used on special projects, such as:
 - Machine or fabricate replacement parts for research projects
 - Perform basic welding on non-critical applications as certified
 - Install electrical and instrument equipment to research projects.
 - Install spool pieces, blanks, and piping components
 - Install/modify tubing, piping, gauges and fittings
 - Provide operations support to research projects, including data recording and sampling
8. Perform basic preventive maintenance (i.e. visual inspections, lubrication, filter changing, cleaning, etc.).
9. Perform other position related duties as assigned or requested.

Physical and Mental Demands:

1. Be able to read, write, and perform simple mathematical calculations.
2. Use step and sectional ladders
3. Use various types of respirators, to include self contained breathing units.
4. Personal protective equipment such as safety glasses, safety toe shoes, hard hats, lab coats, hearing protection, face shields, and gloves may be required. Requirements will vary depending on the area and type of work performed.
5. Overhead or lift-bucket work maybe required. Safety harnesses will be worn.
6. Work in a confined area may be required.
7. Operation of motor vehicles including forklifts may be required.
8. Vision requirements include the ability to focus and depth perception
9. The ability to respond to visual and audio alarms is required.
10. Able to routinely lift and move twenty-five pounds, occasionally lift or move forty pounds, and transfer manually fifty pound containers
11. Hand eye coordination is required.
12. Operate cranes and hoists
13. Will be trained in basic first aid and rescue
14. While performing his job, the employee is regularly required to stand, walk, extend hands and arms, and to talk and hear. The employee is frequently required to use their hands to handle or feel objects, tools, and controls. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.
15. May include shift work.
16. May be asked to participate in Emergency Response Operations on a voluntary basis, refusal is without prejudice. All volunteers will receive appropriate training.

Work Environment:

1. Frequently works in hot and cold environments, near operating machinery, heated and pressurized systems
2. Work may expose employee to fumes, airborne particles, coal dust, irritants, sensitizers, toxic or caustic chemicals and noise. Controls are used to bring exposure

to within acceptable levels

3. Employee will be trained to use spill cleanup kits.
4. Use of emergency showers and eyewash stations may be required.

Integrated Safety Management:

1. Know and follow environment, safety, and health (ES&H) policies and procedures that apply to their job assignments.
2. Become knowledgeable of and maintain awareness of the ES&H hazards associated with their work. Perform work safely in accordance with hazard controls.
3. Report all unsafe operations, and, if necessary, exercise stop-work authority in cases of imminent danger.
4. Work only on those tasks in which they have the required competence, training, skills, and abilities so as to prevent injury to ones self, employees, the public, or the environment.
5. Maintain active involvement in the introduction, revision and/or promotion of ES&H/ISM program activities

Title: Engineering Technician 3

11/30/00

Minimum Position Knowledge, Skills, and Abilities Required:

High school diploma/GED and vocational/technical training beyond high school or equivalent and at least five years of job-related experience, or five years satisfactory site performance. Refer to the Memorandum of Understanding dated 11/30/00 for specific details. Specific training, certification, or licensing and advanced knowledge in the particular area of specialization, plus a broad knowledge of other disciplines. Good communication and analytical skills and a working knowledge of computer systems and software application programs.

Purpose and Scope:

Performs routine and non-routine tasks or tests of some complexity and variety, within, but not necessarily limited to a prescribed area of expertise. Receives initial instructions, equipment requirements, and advice from supervisor or higher level technician as needed. Performs recurring work independently, and the technical adequacy or conformity of routine work is reviewed on completion. Non-routine work may be reviewed in progress. Will perform the essential responsibilities of lower level technicians and can instruct/train other technicians. Periodically, technician can be assigned work above classification for the purpose of gaining experience for future assignments and advancement opportunities. Duties will be varied.

Responsibilities and requirements can vary between operating and support groups. Listed below are examples of responsibilities that may be required.

1. Construct components, sub-units, or simple models or adapt standard equipment. May trouble shoot and correct malfunctions, such as:
 - Fabrication and welding of air, nitrogen, and fuel distribution systems
 - Fabrication of burner nozzles and transition pieces
 - Installation of Tail gas sampling systems
 - Installation of motor and gear reduction units, performing shaft alignment to unit
 - Investigate system sources for proper pressures
 - Investigate non-operating motors and pumps and make operational
2. Follows specific layout and scientific diagrams to construct and package simple devices and sub-units of equipment, such as:
 - Fabrication and installation of vessels
3. Select or adapt standard procedures or equipment, using fully applicable precedents.
4. Select, setup, and operate standard test equipment and records test data, such as:
 - Perform pre-operation safety checks to units, correct deficiencies and document
 - Perform operation and documentation on testing unit
 - Operate sampling equipment for monitoring gas streams
5. Extract and compile a variety of engineering data from lab/test rig notes, manuals, etc.
6. Process data and identify errors or inconsistencies
7. Select methods of data presentation
8. Assists in design modification by compiling data related to design, specifications, and

- materials, which are pertinent to specific items of equipment or component parts.
9. Develop information concerning previous operational failures and modifications
 10. Setup, operate, and maintain service support equipment and record data in logs
 11. Perform major planned preventive or major overhaul maintenance using diagnostic equipment and equipment materials.
 12. Perform other position related duties as assigned or requested.

Physical and Mental Demands:

1. Be able to read, write, and perform simple mathematical calculations.
2. Use step and sectional ladders
3. Use various types of respirators, to include self contained breathing units.
4. Personal protective equipment such as safety glasses, safety toe shoes, hard hats, lab coats, hearing protection, face shields, and gloves may be required. Requirements will vary depending on the area and type of work performed.
5. Overhead or lift-bucket work maybe required. Safety harnesses will be worn.
6. Work in a confined area may be required.
7. Operation of motor vehicles including forklifts may be required.
8. Vision requirements include the ability to focus and depth perception
9. The ability to respond to visual and audio alarms is required.
10. Able to routinely lift and move twenty-five pounds, occasionally lift or move forty pounds, and transfer manually fifty pound containers
11. Hand eye coordination is required.
12. Operate cranes and hoists
13. Will be trained in basic first aid and rescue
14. While performing his job, the employee is regularly required to stand, walk, extend hands and arms, and to talk and hear. The employee is frequently required to use their hands to handle or feel objects, tools, and controls. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.
15. May include shift work.
16. May be asked to participate in Emergency Response Operations on a voluntary basis, refusal is without prejudice. All volunteers will receive appropriate training.

Work Environment:

1. Frequently works in hot and cold environments, near operating machinery, heated and pressurized systems
2. Work may expose employee to fumes, airborne particles, coal dust, irritants, sensitizers, toxic or caustic chemicals and noise. Controls are used to bring exposure to within acceptable levels
3. Employee will be trained to use spill cleanup kits.
4. Use of emergency showers and eyewash stations may be required.

Integrated Safety Management:

1. Know and follow environment, safety, and health (ES&H) policies and procedures that apply to their job assignments.
2. Become knowledgeable of and maintain awareness of the ES&H hazards associated with their work. Perform work safely in accordance with hazard controls.

3. Report all unsafe operations, and, if necessary, exercise stop-work authority in cases of imminent danger.
4. Work only on those tasks in which they have the required competence, training, skills, and abilities so as to prevent injury to ones self, employees, the public, or the environment.
5. Maintain active involvement in the introduction, revision and/or promotion of ES&H/ISM program activities.

Title: Engineering Technician 4

11/30/00

Minimum Position Knowledge, Skills, and Abilities Required:

High school diploma/GED and vocational/technical training beyond high school or equivalent, and at least seven years of job-related experience. Specific training, certification, or licensing and advanced knowledge in the particular area of specialization, plus a broad knowledge of other disciplines. Good communication and analytical skills and a working knowledge of computer systems and software application programs.

Purpose and Scope:

Performs routine and non-routine tasks or tests of substantial complexity and variety where operational precedents may sometimes not exist. Performs recurring and non-routine work independently, and the technical adequacy or conformity of non-routine work is reviewed on completion. Such assignments are typically part of broader assignments, and they may need to be screened to eliminate and resolve unusual design problems. Will be tasked to plan and estimate requirements for such assignments. Will perform the essential responsibilities of lower level technicians and will instruct/train other technicians. Periodically, technician is assigned work above classification for the purpose of gaining experience for future assignments and advancement opportunities. Duties will be varied.

Essential Responsibilities/Requirements:

1. May be assigned to independently lead and coordinate the activities on a task or shift, which may include;
 - Recognize and correct unsafe practice and conduct
 - Ensure compliance and correct discrepancies with area safety conditions, and notify management if problems can not be resolved
 - Ensure that policies and procedures are being followed
2. Develop or review designs by extracting and analyzing a variety of engineering data
3. Perform a wide variety of duties of complex nature in the installation, modification, and operation of electronic equipment if qualified.
4. Perform market surveys for equipment as per the engineering requirements, and provide information to higher level technician, engineer, or management.
5. Assure that the daily operational log is maintained
6. Perform other position-related duties as assigned or requested.

Physical and Mental Demands:

1. Be able to read, write, and perform simple mathematical calculations.
2. Use various types of respirators, to include self contained breathing units.
3. Personal protective equipment such as safety glasses, safety toe shoes, hard hats, lab coats, hearing protection, face shields, and gloves may be required.
Requirements will vary depending on the area and type of work performed.
4. Overhead or lift-bucket work maybe required. Safety harnesses will be worn.
5. Work in a confined area may be required.

6. Operation of motor vehicles including forklifts may be required.
7. Vision requirements include the ability to focus and depth perception
8. The ability to respond to visual and audio alarms is required.
9. Able to routinely lift and move twenty-five pounds, occasionally lift or move forty pounds, and transfer manually fifty pound containers
10. Hand eye coordination is required.
11. Operate cranes and hoists
12. Will be trained in basic first aid and rescue
13. While performing his job, the employee is regularly required to stand, walk, extend hands and arms, and to talk and hear. The employee is frequently required to use their hands to handle or feel objects, tools, and controls. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.
14. May include shift work.
15. May be asked to participate in Emergency Response Operations on a voluntary basis, refusal is without prejudice. All volunteers will receive appropriate training.

Work Environment:

1. Frequently works in hot and cold environments, near operating machinery, heated and pressurized systems
2. Work may expose employee to fumes, airborne particles, coal dust, irritants, sensitizers, toxic or caustic chemicals and noise. Controls are used to bring exposure to within acceptable levels
3. Employee will be trained to use spill cleanup kits.
4. Use of emergency showers and eyewash stations may be required.

Integrated Safety Management:

1. Know and follow environment, safety, and health (ES&H) policies and procedures that apply to their job assignments.
2. Become knowledgeable of and maintain awareness of the ES&H hazards associated with their work. Perform work safely in accordance with hazard controls.
3. Report all unsafe operations, and, if necessary, exercise stop-work authority in cases of imminent danger.
4. Work only on those tasks in which they have the required competence, training, skills, and abilities so as to prevent injury to ones self, employees, the public, or the environment.
5. Maintain active involvement in the introduction, revision and/or promotion of ES&H/ISM program activities.

Title: Engineering Technician 5

11/30/00

Minimum Position Knowledge, Skills, and Abilities Required:

High school diploma/GED and vocational/technical training beyond high school or equivalent, and at least nine years of job-related experience. Specific training, certification, or licensing and advanced knowledge in the particular area of specialization, plus a broad knowledge of other disciplines. Good communication and analytical skills and a working knowledge of computer systems and software application programs.

Purpose and Scope:

Performs non-routine and complex assignments involving responsibility for planning and conducting a complete project of relatively limited scope or a portion of a larger and more diverse project. Conducting these assignments will involve estimating and scheduling resources and adapting plans, techniques, designs, or layouts. Will be necessary to contact personnel in related activities to resolve design and layout problems and to coordinate the work. Will perform the essential responsibilities of lower level technicians and will train/instruct lower level technicians. Duties will be varied.

Essential Responsibilities/Requirements:

1. Investigate accidents with Safety Officer, completes and forwards accident/incident reports to management.
2. Provide weekly safety contacts to assigned personnel.
3. Participate in the interviewing of candidates, and completes a non-subjective interview appraisal
4. Provide non-subjective input to management in the performance evaluations of engineering technicians assigned.
5. Provide non-subjective input to management for personnel bidding on job postings.
6. Ensure work order estimates and closeouts have been completed by the assigned lower level technicians and forwarded to management.
7. Works with management in coordinating weekly planning and work schedules.
8. Perform other position-related duties as assigned or requested.

Physical and Mental Demands:

1. Be able to read, write, and perform simple mathematical calculations.
2. Use step and sectional ladders
3. Use various types of respirators, to include self contained breathing units.
4. Personal protective equipment such as safety glasses, safety toe shoes, hard hats, lab coats, hearing protection, face shields, and gloves may be required. Requirements will vary depending on the area and type of work performed.
5. Overhead or lift-bucket work maybe required. Safety harnesses will be worn.
6. Work in a confined area may be required.
7. Operation of motor vehicles including forklifts may be required.
8. Vision requirements include the ability to focus and depth perception
9. The ability to respond to visual and audio alarms is required.
10. Able to routinely lift and move twenty-five pounds, occasionally lift or move forty pounds, and transfer manually fifty pound containers

11. Hand eye coordination is required.
12. Operate cranes and hoists
13. Will be trained in basic first aid and rescue
14. While performing his job, the employee is regularly required to stand, walk, extend hands and arms, and to talk and hear. The employee is frequently required to use their hands to handle or feel objects, tools, and controls. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.
15. May include shift work.
16. May be asked to participate in Emergency Response Operations on a voluntary basis, refusal is without prejudice. All volunteers will receive appropriate training.

Work Environment:

1. Frequently works in hot and cold environments, near operating machinery, heated and pressurized systems
2. Work may expose employee to fumes, airborne particles, coal dust, irritants, sensitizers, toxic or caustic chemicals and noise. Controls are used to bring exposure to within acceptable levels
3. Employee will be trained to use spill cleanup kits.
4. Use of emergency showers and eyewash stations may be required.

Integrated Safety Management:

1. Know and follow environment, safety, and health (ES&H) policies and procedures that apply to their job assignments.
2. Become knowledgeable of and maintain awareness of the ES&H hazards associated with their work. Perform work safely in accordance with hazard controls.
3. Report all unsafe operations, and, if necessary, exercise stop-work authority in cases of imminent danger.
4. Work only on those tasks in which they have the required competence, training, skills, and abilities so as to prevent injury to ones self, employees, the public, or the environment.
5. Maintain active involvement in the introduction, revision and/or promotion of ES&H/ISM program activities.

APPENDIX C

216 Plan

**100% In-Network / 80% Out-of-Network
\$300/\$600 Out-of-Network Deductible**

Lifetime Maximum	unlimited
Physician Office visits	\$15.00
Emergency Room Visit	\$35.00, waived if admitted
Hospital Expenses Inpatient/Outpatient	no co-pay
Diagnostic Services	no co-pay
Ambulance	no co-pay
Spinal Manipulations	\$15.00 20 visits/calendar year
Physical/Speech/Occupational Therapy	\$15.00 20 visits/calendar year
Durable Medical Equipment	no co-pay
Skilled Nursing/Home Health	no co-pay
Prescription Drug Program	\$10 generic \$20 brand \$35 non-formulary 31 day supply
	\$20 generic \$40 brand \$70 non-formulary Mail Order

REGISTER OF WAGE DETERMINATION UNDER THE SERVICE CONTRACT ACT By direction of the Secretary of Labor	U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION WAGE AND HOUR DIVISION WASHINGTON D.C. 20210
William W. Gross Division of Director Wage Determinations	Wage Determination No.: CBA-2007-1013 Revision No.: 0 Date Of Last Revision: 1/19/2007
<hr/>	
State: Pennsylvania	
Area: Allegheny	

Employed on National Energy Technology Laboratory, Department of Energy contract for Research and Development Support Services.

Collective Bargaining Agreement between contractor: EG&G Technical Services (RDS Inc.), and union: International Union of Operating Engineers Local 95, effective 7/1/2003 through 6/30/2007 and amended on 7/1/2003.

In accordance with Section 2(a) and 4(c) of the Service Contract Act, as amended, employees employed by the contractor(s) in performing services covered by the Collective Bargaining Agreement (s) are to be paid wage rates and fringe benefits set forth in the current collective bargaining agreement and modified extension agreement(s).

AGREEMENT BETWEEN



PARTY TO GOVERNMENT CONTRACT

DE – AM26-99FT40464

NATIONAL ENERGY TECHNOLOGY LABORATORY - PITTSBURGH

AND

THE INTERNATIONAL UNION OF OPERATING ENGINEERS

LOCAL 95, AFL-CIO

EFFECTIVE JULY 1, 2003

INDEX

		PAGE
PREAMBLE		
ARTICLE 1	- PURPOSE	1
ARTICLE 2	- RECOGNITION	2
ARTICLE 3	- UNION REPRESENTATION	2
ARTICLE 4	- GENERAL WAGE PROVISION	4
ARTICLE 5	- GRIEVANCE PROCEDURE	5
ARTICLE 6	- ARBITRATION	7
ARTICLE 7	- HOURS AND OVERTIME	8
ARTICLE 8	- HEALTH INSURANCE & WELFARE	9
ARTICLE 9	- SENIORITY	11
ARTICLE 10	- HOLIDAYS	14
ARTICLE 11	- VACATIONS	15
ARTICLE 12	- LEAVES OF ABSENCE	16
ARTICLE 13	- MANAGEMENT RIGHTS	17
ARTICLE 14	- GENERAL PROVISIONS	18
ARTICLE 15	- SAVINGS CLAUSE/CHANGE IN LAWS	19
ARTICLE 16	- BULLETIN BOARDS	19
ARTICLE 17	- SAFETY	19
ARTICLE 18	- NEW EQUIPMENT	20
ARTICLE 19	- SUCCESSORSHIP	20
ARTICLE 20	- APPRENTICESHIP	20
ARTICLE 21	- EDUCATION TRUST FUND	21
ARTICLE 22	- STEWARD TRAINING	22
ARTICLE 23	- CENTRAL PENSION FUND	22
ARTICLE 24	- NO STRIKE-NO LOCKOUT	23
ARTICLE 25	- PART-TIME/TEMPORARY EMPLOYEES	23
ARTICLE 26	- TERMINATION	23
APPENDIX "A"	- CHECK OFF FORM	25
APPENDIX "B"	- WAGES	26

PREAMBLE

THIS AGREEMENT is made effective July 1, 2003 by and between EG&G Technical Services, a Party to Government Contract #DE-AM2699FT40464 located at the National Energy Technology Laboratory - Pittsburgh, ("NETL"), Bruceton, Pennsylvania, (hereinafter referred to as either the "Company" or "EG&G") and Local Union 95 of the International Union of Operating Engineers, located at 300 Saline Street, Pittsburgh, Pennsylvania, 5207, (hereinafter referred to as the "Union").

WITNESSETH: WHEREAS, the Company and the Union have bargained collectively, in good faith, with respect to wages, hours and other conditions of employment for employees in a Bargaining Unit hereinafter more clearly defined, and have reached agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the Company and the Union do hereby agree as follows:

ARTICLE I - PURPOSE

It is the intent and purpose of the Company and the Union to establish, through this Agreement, the wages, hours of work, and conditions of employment about which the Company and the Union bargained for the employees of the Company in the unit defined herein; to provide a procedure for processing disputes between the Company and the Union as to the interpretation and application of the provisions of this Agreement; and generally to govern the relationship between the Company and the Union and its members.

SECTION 1.1 - The Union recognizes the necessity to achieve efficiency in production and acknowledges that it is the further purpose of this Agreement to prevent interruptions of work and interference with the efficient operation of the Company's business.

SECTION 1.2 - Except as specified in this Agreement, the Union and the employees it represents are not waving rights which exist under the National Labor Relations Act to bargain over employees' wages, hours and working conditions. Nor do the Union and the employees it represents waive any right to challenge any governmental action, which would dictate a change in a term and condition of employment provided for under this Agreement.

SECTION 1.3 - The Company and the Union mutually agree not to discriminate in any way against any employee with respect to hiring, compensation and terms or conditions of employment because of religion, race, creed, sex, national origin, age, union membership and to comply with all applicable laws relating to the handicapped and Vietnam-era Veterans.

ARTICLE 2 - RECOGNITION

The Company hereby recognizes the Union as the exclusive bargaining representative for the purpose of bargaining collectively as required by Section 8D of the NLRA with respect to wages, hours and other conditions of employment, for the Company's employees regularly assigned to the following bargaining unit, all full time and regular part-time stationary engineers and maintenance employees, including HVAC mechanics, operator mechanics, electricians, electronic technicians, pipefitter/plumbers, welders, machinery mechanics and truck drivers, lead operator mechanics, unit clerk and unit secretary employed by EG&G in the operation, maintenance, repair and renovation of all equipment under the direct supervision of EG&G at NETL, Bruceston, Pennsylvania. All other employees are excluded.

Except as otherwise provided in this Agreement, the Company's personnel outside the collective bargaining unit can perform bargaining unit work only in emergency situations when no bargaining unit members are available in sufficient numbers or would not be reasonably expected to arrive in sufficient time to abate the emergency.

ARTICLE 3 - UNION REPRESENTATION

SECTION 3.1 - UNION BUSINESS REPRESENTATIVE The Business Representative of the Union shall have access to the shops and office of **EG&G** at NETL for the purposes of adjusting disputes, investigating working conditions, and ascertaining that the Agreement is being adhered to providing there is no interruption of the Company's business and providing further that;

- a) the Business Representative notifies the Program Manager in advance of any visit and,
- b) prior to entering any facilities under the control of the Company, the visiting Union Representative reports to the Program Manager's office.

SECTION 3.2 - SHOP STEWARDS The Company recognizes the right of the Union to designate one (1) Steward and one (1) alternate.

- a) The authority of the Steward so designated by the Union shall be limited to, and shall not exceed, the following duties and activities:
 - 1) The investigation and presentation of grievances in accordance with the provisions of this collective bargaining Agreement.
 - 2) The transmission of such messages and information as shall originate with, and are authorized by the Union or its officers.

SECTION 3.3 - SCOPE OF STEWARDS' UNION ACTIVITIES The Stewards' Union activities on Company time shall fall within the scope of the following functions:

- a) To investigate a complaint or grievance and to present a complaint or grievance to an employee's immediate manager in an attempt to settle the matter for the employee or group of employees who may be similarly affected.
- b) The Union Steward and/or the assistant Union Steward shall be permitted reasonable time off during their scheduled shift without loss of compensation to investigate and/or attend Grievance/Arbitration and Negotiation meetings between the Company and Local 95.
- c) The Company and the Union are in agreement that a minimum amount of time should be spent in the performance of these duties.
- d) The Steward shall be allowed to perform these duties during the Steward's working hours without loss of compensation. The performance of these duties shall be limited to a reasonable amount of time per shift.
- e) Notwithstanding the duties specified above, the Steward shall have the same responsibilities to the Company as any other Employee. The duties specified above shall not relieve the Steward of his/her duties, and obligations as an employee of the Company, and he/she shall continue to be subject to all rules, regulations and procedures applicable to other employees.

SECTION 3.4

- a) The Steward shall have super seniority in his/her respective occupational classification for purposes of lay-off and recall only, if there is work and the Steward is qualified to perform the work. This provision shall not be construed as a guarantee of employment. An alternate Steward does not have super seniority. An alternate Steward will only be recognized as Steward when acting in behalf of a Steward who is absent from work. The alternate Steward will be permitted to follow up a grievance that was initiated during the absence of the Steward, but will be subject to the same obligations and limitations as the Steward.
- b) The Steward shall be on the job at all times during working hours as far as is practical. The Steward shall not hinder or delay the performance of his/her work or other employee's work.
- c) The Steward must first obtain permission from his/her immediate supervisor before leaving his/her workstation to investigate a grievance during working hours. Upon

completion of such investigation, he/she shall immediately report back to his/her supervisor before returning to work. Permission will not be unreasonably withheld.

d) The Steward shall not solicit grievances.

e) The Company will not afford the Steward preferential treatment, except as otherwise provided in this Agreement.

SECTION 3.5 - UNION SHOP All employees of the Company covered by this Agreement, who pay dues to the Union and are in good standing on the effective or execution date of this Agreement, whichever is later, shall continue to pay dues to the Union and shall remain in good standing. Those who are not paying dues to the Union on the effective or execution date of this Agreement, shall commence paying dues and remain in good standing in the Union as of the effective date of this Agreement. All employees covered by this Agreement and hired on or after its effective or execution date, whichever is later, shall, on the ninetieth (90th) day following the beginning of such employment, commence paying dues to the Union and remain in good standing in the Union. Probationary Employees and Temporary Employees are required to pay a permit fee each month as designated by the Union.

SECTION 3.6 - CHECK-OFF Upon receipt of an employee's written authorization, attached as Exhibit "A" which shall be irrevocable for the life of the Agreement, the Company shall on one (1) pay day of each month deduct from such employee's wages, monthly Union dues, permit fees and application fees and remit those funds to the business office of the Union monthly.

SECTION 3.7 - HOLD HARMLESS The Union agrees to indemnify the Company and hold it harmless against any liability incurred as a result of the Company's complying with **Section 3.6** of this Agreement.

SECTION 3.8 - The Union shall notify the Company of the amount of dues to be withheld by the Company, and shall advise the Company in writing at least three (3) months prior to any change in the amount to be withheld.

ARTICLE 4 - GENERAL WAGE PROVISIONS

SECTION 4.1 - WAGE RATES: The hourly rates for Employees covered by this Agreement shall be as set forth in Exhibit "B".

SECTION 4.2 - SHIFT DIFFERENTIALS Effective October 1, 2003, the Company shall pay a shift differential of \$1.25 per hour for all hours worked on a regularly scheduled shift commencing after 3:00 P.M.

SECTION 4.3 - OUT OF CLASSIFICATION WORK When a qualified employee is assigned to and works independently for a period of one (1) hour or more in a higher (but not lower) classification, the employee will receive the rate of the higher classification for the period during which the employee works in the higher classification.

SECTION 4.4 - TEMPORARY ASSIGNMENT If a temporary vacancy is anticipated to exist for more than thirty (30) calendar days, the Company may select an employee to fill that vacancy for no more than one hundred eighty (180) calendar days. Employees shall indicate his/her interest in such temporary vacancies and, if qualified, be selected to fill it based on seniority.

SECTION 4.5 - SCHEDULE CHANGES An employee's schedule shall not be changed for the explicit purpose of avoiding overtime.

SECTION 4.6 - WAGE RATES FOR REVISED OCCUPATIONAL CLASSIFICATIONS In the event the Company desires to revise occupational classifications, the wage rates applicable shall be determined by negotiation between the Company and the Union. Operations shall not be delayed through failure to immediately agree upon wages rates applicable to any such occupational classification. In such cases, pending the results of negotiations, the Company will establish the revised occupational classification and the Company proposed wage rate applicable thereto and shall place such occupational classification and such wage rate into effect. Negotiated rates finally established which are higher than the Company's proposed rates will be paid retroactive to the date of the revised occupational classification.

SECTION 4.7 - TUITION REFUND Tuition refund will be provided in accordance with corporate policy; said policy may be modified.

SECTION 4.8 - REIMBURSEMENT FOR TRAINING The Company agrees to provide reimbursement of tuition for employees attending and successfully completing courses offered by the Union (Local 95) training program or other providers as long as a prior written request is submitted for approval by the Company. Such courses will include RCRA, DOT, OSHA (Hazwoper), and OSHA (Hazmat).

ARTICLE 5 - GRIEVANCE PROCEDURE

SECTION 5.1 - DEFINITION The word grievance as used in this Agreement means a complaint filed by an employee and/or the Union against the Company alleging failure of the Company to comply with any express provision of this Agreement not excluded from this Grievance Procedure.

SECTION 5.2 - INITIATION OF GRIEVANCE A grievance, to be recognized, must be brought to the Company's attention within five (5) working days of its occurrence. The Company has no

obligation to accept a grievance unless it is submitted and appealed within the time limits set forth in this **Article 5** of the Agreement.

SECTION 5.3 - GOOD FAITH EFFORTS If a grievance should arise between any employee or group of employees or the Union and the Company, a good faith effort shall be made to promptly settle such grievance.

SECTION 5.4 - FAILURE TO RESPOND If the Company fails to answer within the time limits set forth in this Article 5 of the Agreement, the grievance shall automatically proceed to the next step.

SECTION 5.5 - PROCEDURE Grievance shall be handled in the following sequence and manner:

1) As Step 1, the Employee or Employees shall take the matter up with the designated Manager within five (5) working days of knowledge of infraction and the grievant may request that their Union Steward be present. The manager shall have five (5) working days to respond to the issue. If the matter is not satisfactorily adjusted within said five (5) day period, the grievance may be processed at Step 2.

2) As Step 2, the grievance shall, within five (5) working days thereafter, be reduced to writing, on standard grievance form attached as Exhibit "C", specifying, where possible, the Article and Paragraph of the Agreement claimed to have been violated. The employee or employees involved shall take the matter up with the Human Resources Manager. If the matter is not satisfactorily adjusted within three (3) work days after having taken the matter up with the Human Resources Manager at Step 2, the grievance may be processed at Step 3.

3) As Step 3, the grievance shall be taken up on with the Program Manager and/or his/her representative and the Union's Business Representative. If the matter is not satisfactorily adjusted within five (5) working days, it shall be subjected to arbitration in accordance with provisions hereinafter set forth.

SECTION 5.6 - DISCIPLINE AND DISCHARGE The Company reserves the right to discipline, or discharge employees in accordance with Company Policy and procedures. Should the Union dispute the Company's action as not being for just cause, then such dispute may be processed as a grievance starting at Step 3 of the Grievance Procedure, provided the grievance is reduced to writing within five (5) days of the effective date of the disciplinary action in question.

In cases of discharge, the Company shall notify the Union of the discharge and its reason for such action in writing within one (1) working day, or as soon thereafter as practicable, by Certified Mail. An employee who claims he/she has been discharged without just cause must notify the Union within two (2) working days following the discharge. Notice that a discharge is being grieved must be made to the Company in writing by the Union within five (5) working days from the date of

discharge. Discussions between the Company and the Union Business Representative concerning the discharge shall be considered Step 3 and subject to the provisions relating to Step 3 of the Grievance Procedure.

SECTION 5.7 - TIME LIMITS The time limits specified in this Article shall be of the essence, and failure by the Union to take actions as required within the time specified herein shall result in the Grievance being dropped and not being subject to arbitration. The time limits may be waived only by written mutual agreement. Working days used throughout this grievance procedure shall be exclusive of Saturday, Sunday or Holidays. It is understood that this definition of working days is unique to the grievance procedure.

ARTICLE 6 - ARBITRATION

SECTION 6.1 - ARBITRATION If within five (5) working days from and after the day that the Company's answer to Step 3 was given to the Union, the grievance is not satisfactorily resolved, the Company or the Union shall have the right to appeal the Grievance to arbitration. The arbitrator shall be selected from a panel of seven (7) submitted to the parties from the Federal Mediation and Conciliation Service. Both parties agree that a request for arbitration must be submitted to the non grieving party within five (5) working days from the receipt of the Company's answer to Step 3 or the right to arbitrate that grievance is forfeited.

SECTION 6.2 - COST OF ARBITRATION The expense and fees of the Arbitrator shall be borne equally by the Company and the Union. Each party shall pay any and all expenses for their own representatives and witnesses.

SECTION 6.3 - ARBITRATOR'S AUTHORITY The Arbitrator shall have the authority to determine the procedural rules of arbitration and shall have the authority to make such binding awards as are necessary to enable him/her to act effectively subject to the following:

The decision of the Arbitrator shall be binding upon the Company, the Union, and the aggrieved employee or employees. The Arbitrator shall have no power to add or subtract from or modify any of the terms of this Agreement or any Agreements made supplementary hereto, or to substitute his/her discretion in cases where the Company is given discretion by this Agreement or by any Supplementary Agreements. It is agreed that any differences arising as the result of the negotiation of the terms of a new Agreement or the modification of the Agreement are not subject to this Article, the sole purpose of which is to make grievances arising out of and during the term of the Agreement subject to arbitration.

ARTICLE 7 - HOURS AND OVERTIME

SECTION 7.1 - NOTICE OF SHIFT CHANGE Except in cases of emergency or when directed by the client, the Company will give at least seven (7) days notice of any shift change.

SECTION 7.2 - ASSIGNMENT OF OVERTIME The Company retains the right to assign the least senior qualified person in a classification that requires shift work or overtime for which no senior person in that classification has volunteered.

SECTION 7.3 - DISTRIBUTION OF OVERTIME Overtime shall be distributed equitably among all employees of a classification on a rotating descending seniority basis, except that employees performing the work during their regular eight (8) hour shift shall be offered first.

- a) Refusal to work overtime shall be counted as time worked for the sole purpose of equitable distribution.
- b) Special projects out of classification shall be rotated among qualified employees by Bargaining Unit seniority.
- c) Should the Company and the Union determine that an employee was improperly denied overtime opportunities, the Company shall provide the employee with future available scheduled overtime, provided the employee is qualified for the job to be done and it does not disrupt the efficient operation of the department.
- d) A written record of overtime worked by employees in each Department will be maintained by the employee's Manager. The overtime record will indicate the employee's name and the date. Employees will be credited with overtime worked by recording the actual number of overtime hours worked. Employees unable to work overtime, when requested, shall be deemed to have worked the overtime hours actually worked on the task for distribution of overtime purposes.

SECTION 7.4 - WORKWEEK The workweek shall consist of seven (7) days beginning immediately after midnight on Friday and ending at 12:00 midnight the following Friday.

SECTION 7.5 - REGULAR WORKWEEK The regular workweek shall consist of five (5) consecutive shifts within one (1) standard payroll week normally Monday through Friday.

SECTION 7.6 - WORKDAY A workday is a period of twenty-four (24) consecutive hours beginning immediately after midnight of one day and ending at midnight on the following day.

SECTION 7.7 - REGULAR SHIFT A "regular shift" shall be scheduled in advance, and shall consist of a specific number of consecutive hours during a "regular work day" exclusive of a one-half hour (1/2) unpaid meal period.

SECTION 7.8 - OVERTIME WORK

a) The Company shall determine when and by whom overtime will be worked. Overtime will be allocated as equally as possible among employees. Overtime worked shall be compensated at the rate of time and one-half (1-1/2) for all hours worked in excess of eight (8) hours in a workday and forty (40) hours in a workweek. Employees may request an altered workday/workweek for their convenience. Altered schedules are subject to the approval of management.

b) Holidays and vacation shall be included as time worked for the purpose of calculating overtime. Personal or sick leave shall be excluded as time for purposes of calculating overtime.

SECTION 7.9 4/10 HOUR WORKWEEK – In response to customer requirement, the Truck Driver will be assigned to a 4/10 hour workweek. When a holiday occurs on a workday, the Truck Driver will receive 10 hours of holiday pay.

SECTION 7.10 - PYRAMIDING There will be no “pyramiding” of overtime allowed.

SECTION 7.11 - CALL OUT PAY Any employee called back to work after having completed his/her regular shift and gone home shall receive a minimum of four (4) hours pay at one and one-half (1-1/2) times the prescribed hourly rate. An employee shall not be deemed to have been called back under the provisions of this Section unless requested to work after having punched out and physically departed the Employer’s premises. An employee called out may be required to work the four (4) hours if requested by his/her supervisor. An employee whose call-in time extends into their regular shifts shall receive the appropriate premium rate for those hours which extend into the regular shift.

ARTICLE 8 - HEALTH INSURANCE & WELFARE

SECTION 8.1 - BENEFITS PROVIDED The employer agrees to make contributions as listed below, for all employees and their eligible dependents, covered herein, to the Pittsburgh Building Owners Welfare Fund. This plan provides for the life, accidental death, sickness and accident insurance. The plan further provides for family dental, eye care, prescription drug program and health insurance. The specifics of this insurance are contained in Local 95’s summary plan descriptions. Copies of which have been given to the employer and employees.

SECTION 8.2 – ELIGIBILITY Regular full-time Employees shall become eligible for the Pittsburgh Building Owners Welfare fund on the first (1st) day of the month following employment with the Company.

SECTION 8.3 - BENEFITS OPTIONS

Effective July 1, 2003, the Employee contribution amount will not be increased with the increased health premiums. Effective September 1, 2003, and for the life of the agreement, the employer will pay 85% of the Health premiums with the employee paying 15% of the elected premium. The employee contribution will be increased to the then current health premiums effective August 1, 2004, and again thereafter effective July 1 of each succeeding year. The Company will forward contributions to the Health and Welfare Funds for Individual, Two Party, and Family coverage.

Class N – consisting of	Contract #
Health America HMO	2180980001
UC Flex	142054-002
OPTI Choice Vision	80754-00
Life Insurance	\$50,000
Accidental Death	\$50,000
Sickness & Accident	\$500/wk for 26 weeks
Class M – consisting of	Contract #
UPMC HMO	0003670095
United Concordia	25328000
OPTI Choice Vision	80754-00
Life Insurance	\$50,000
Accidental Death	\$50,000
Sickness & Accident	\$500/wk for 26 weeks
Class E – consisting of	
UPMC HMO	0003670095
UC Flex	142054-002
OPTI Choice Vision	80754-00
Life Insurance	\$50,000
Accidental Death	\$50,000
Sickness & Accident	\$500/wk for 26 weeks
Class R – consisting of	
Health America HMO	2180980001
United Concordia	25328000
OPTI Choice Vision	80754-00
Life Insurance	\$50,000
Accidental Death	\$50,000
Sickness & Accident	\$500/wk for 26 weeks

SECTION 8.4 - WAIVER OF PARTICPATION Bargaining unit employees who elect to waive participation in the health insurance plan will be eligible for Company provided Class O - Life Insurance (\$50,000), Accidental Death and Dismemberment (\$50,000) and Accident and Sickness (\$500/wk for 26 wks) benefits only. Employees may opt to waive health insurance coverage and receive a waiver paid on a bi-weekly basis. Employees must furnish proof of other health coverage to qualify for the waiver. Individual - \$500.00 2-Party and Family - \$1000.00

SECTION 8.5 - EMPLOYEE CO-PAY AMOUNT In addition to medical as stated in 8.3 above, bargaining unit employees shall pay fifteen (15%) percent of the cost of Dental, Vision, Life/AD&D, A&S and operating fee premiums monthly.

ARTICLE 9 - SENIORITY

SECTION 9.1 - SENIORITY

- a) Site seniority is defined as a Bargaining Unit employee's continuous service at the site with a predecessor contractor or **EG&G**.
- b) Bargaining unit seniority is defined as a bargaining unit member's continuous service earned under this Labor Agreement or a prior Labor Agreement as a member in good standing with the International Union of Operating Engineers.
- c) The Company shall supply the Union with a job classification and site seniority list of the employees covered by this Agreement. Such list(s) shall be revised annually.

SECTION 9.2 - LAYOFF The Company will determine the time of layoffs, the number of employees to be laid off, and in what job classifications layoffs will occur.

- a) If a layoff should occur, the Union shall be notified at least two (2) weeks in advance. Such layoffs shall be made by job classification seniority within the job classification affected.
- b) The employee with the least job classification seniority shall be the first to be laid off and recall shall be in reverse order. An employee subject to layoff out of a job classification may use their bargaining unit seniority to bump a less-senior bargaining unit employee who holds a classification for which they are qualified. If bargaining unit seniority is equal, then site seniority shall be used as the tie-breaker.
 - 1) The employee may exercise his/her bumping rights within any job classification in which an employee had previously established classification seniority and is still qualified.

- 2) An employee who is laid off may elect to displace an employee with less site seniority in a different job classification if he/she is qualified to do so.
- 3) In the case of a layoff, probationary employees shall be laid off first and apprentices second.
- 4) If at the time of layoff, any eligible employee declines to exercise their seniority right, such employee shall retain seniority rights to be recalled. Such employee must notify the Company of an intention to exercise seniority rights within two (2) working days of the layoff notice. An employee so displaced may similarly exercise seniority rights to displace another employee in accordance with the same criteria.

SECTION 9.3 - SEVERANCE PAY A regular full-time employee with at least one year of continuous service whose employment is terminated due to a reduction in force shall be paid four (4) week's of severance pay.

SECTION 9.4 - TERMINATION OF SENIORITY An employee's seniority shall be terminated and his/her rights under this Agreement forfeited for the following reasons:

- a) Discharge for just cause, retirement, or resignation;
- b) Failure to give notice of intent to return to work after recall within five (5) working days, or failure to return to work on the date specified for recall, as set forth in the written notice of recall;
- d) Time lapse of twenty-four (24) months, or for a period equal to the employee's seniority (whichever is less) since the last day of actual work for the Company; provided the employee substantiates his/her availability every three (3) months;
- e) Failure to return to work upon expiration of a leave of absence;
- f) Absence in excess of two (2) years due to physical disability; provided, however, that where such absence is due to compensable disability incurred during the course of such employment, such absence shall not break continuous service, provided that such individual has returned to work within a seven (7) calendar day period after final payment of statutory compensation for such disability or after the end of the period used in calculating a lump sum payment. Upon return to work from a period of Disability, the employee must present appropriate documentation verifying his/her availability date and medical release.

SECTION 9.5 - RECALL

- a) **Order of Recall** If the Company determines to fill job vacancies in a job classification from which employees are laid off, such employees who are eligible for recall, shall be recalled in reverse order of layoff.
- b) **Notice to Recall.** The Company will forward a notice of recall by certified mail to the last known address of the employee reflected on Company records. The employee must, within five (5) working days of delivery or attempted delivery of the notice of recall, notice the Company of his/her intent to return to work on the date specified for recall and thereafter, return to work on such date.

SECTION 9.6 - JOB POSTING When the Company determines to fill a job within the Bargaining Unit, the Company will put a notice of the vacancy or job opening on the employee bulletin boards for five (5) workdays. Subject to the provisions elsewhere in this Agreement any employee may submit a bid for the job to the Human Resources Department in writing, during the posting period by placing the bid in the receptacle provided. The Company shall not be required to post a notice of vacancy or job opening for a particular job more than once every sixty (60) days. Any bid submitted within a posting period shall remain valid for sixty (60) days.

SECTION 9.7 - SELECTION From among employees who submit bids for the job, the Company will award the job to the most qualified employee; provided that if two (2) or more bidders are equally qualified, the Company will award the job to the employee with the greater site seniority. Once internal sources are utilized, the Company will utilize the Union Hall as one source for qualified candidates. Should the Company determine that candidates referred by the Union are not qualified, they may fill the job from any source.

SECTION 9.8 - RESTRICTION ON BIDDING An employee who is awarded a job for which he/she bid, must accept it. If, immediately prior to being awarded a posted job, the employee's designated job classification was the same as or higher than the posted job, the employee may not bid for another job for a period of eighteen (18) months after being awarded the job.

SECTION 9.9 - DISQUALIFICATION OF A BIDDER An employee who is unable to perform the job to which he/she bid to the satisfaction of the Company within thirty (30) workdays after being awarded the job shall be returned to the job classification he/she held at the time of submitting the bid.

SECTION 9.10 - PROBATIONARY PERIOD A probationary period of ninety (90) days will be observed for each new employee during which time the Company will make specific and periodic evaluations of the employee's qualifications, skills and abilities. During this probationary period, an employee shall be considered as having no seniority rights, provided that upon completion of the probationary period, an employee shall be entitled to seniority rights as

measured from an employee's employment date. During the probationary period an employee may be discharged in accordance with Company Policy and procedure without recourse to the grievance procedure.

SECTION 9.11 – QUALIFICATIONS It is agreed that the Company is the sole and exclusive agent to determine the qualifications, skills and abilities of all employees.

SECTION 9.12 – SENIORITY If application of the preceding Section results in two (2) or more employees having the same seniority, the employee whose last four (4) digits in his/her social security number is the largest shall be deemed more senior. (E.G. 4321 is larger than 1234). Seniority shall not accrue to a probationary employee until completion of the probationary period at which time the employee shall possess seniority. Seniority shall be applicable only as expressly provided in this Agreement.

ARTICLE 10 - HOLIDAYS

SECTION 10.1 - HOLIDAYS CELEBRATED The following days shall be paid holidays for the purpose of this Agreement:

- | | |
|---------------------------|-----------------|
| 1. New Year's Day | 6. Labor Day |
| 2. President's Day | 7. Columbus |
| 3. Martin Luther King Day | 8. Veterans |
| 4. Memorial Day | 9. Thanksgiving |
| 5. Independence Day | 10. Christmas |

SECTION 10.2 - ELIGIBLE EMPLOYEES To be eligible for Holiday pay, an employee must have completed his/her probationary period, be on the active payroll of the Company, be a regular, full-time employee and be in a compensable state with EG&G the day before and the day after the Holiday. Employees on workers' compensation, accident and sickness, or LWOP are not considered to be in a compensable state.

SECTION 10.3 - NO WORK ON THE HOLIDAYS An eligible employee who is not required to work on the day observed as a Holiday shall receive eight (8) hours pay at his/her straight-time rate of pay, plus shift differential, if applicable.

SECTION 10.4 - WORK ON THE HOLIDAY An eligible employee who is required to work on the day observed as a Holiday shall receive one and a half (1-1/2) times his/her straight time hourly rate for all hours actually worked on that day, in addition to eight (8) hours pay at his/her straight time rate of pay. An employee who is required to work on the day observed as a Holiday and who does not report for work shall not be paid for the Holiday under this Article unless the Company ascertains there is a valid reason for his/her absence.

SECTION 10.5 - HOLIDAY DURING A VACATION PERIOD If a Holiday occurs during the scheduled vacation of an eligible employee, the employee will not be charged a vacation day for the Holiday and the observed Holiday shall be paid as Holiday pay.

SECTION 10.6 - EMERGENCY SHUTDOWN When, due to emergency reasons the Government shuts down the operation, employees who are specifically required to continue to work or who are called in to work will be compensated at one and one-half (1-1/2) their normal straight time rate for all hours worked.

ARTICLE 11 - VACATION

SECTION 11.1 - VACATION ACCRUAL All full-time regular Employees in active payroll status (i.e. not on LWOP) during the month shall accrue vacation leave based on the schedules in Section 11.4. Employees will accrue vacation leave based on years of full-time service. Employees on A&S or Workers Compensation will accrue vacation leave for up to twenty-six (26) weeks of their disability.

SECTION 11.2 - VACATION CARRYOVER Employees may carry over a maximum number of hours of vacation leave from one calendar year to the next. All vacation leave above the maximum carry over will be paid to the Employee in the second payroll of January in the following year. All unused vacation leave at the time of termination will be paid to the Employee in the final paycheck following termination.

SECTION 11.3 - ACCRUAL INCREASE Employees will begin to accrue leave at the higher rate on the fifteenth of the month after the Employee completes the number of years of service required for the higher rate.

SECTION 11.4 - ACCRUAL RATES The amount of vacation to which an employee is entitled during any year shall be determined by the number of years of continuous service completed by the employee at the site with a predecessor contractor (i.e. a contractor which performed essentially the same service as EG&G under a preceding contract) or with EG&G in accordance with the following chart:

<u>Years of Continuous Service</u>	<u>Days/year</u>	<u>Hours/Month</u>	<u>Carryover</u>
Less than 4	10 days	6.66 hrs	144 hrs
4 to 13	15 days	10 hrs	192 hrs
14 to 23	20 days	13.33 hrs	240 hrs
24 or more	25 days	16.66 hrs	288 hrs

All absences, unless approved beyond the allotted vacation hours, shall be leave without pay and considered excessive absence as addressed in Company procedures.

SECTION 11.5 - REQUEST FOR LEAVE Employees desiring to take vacation leave must submit the request to his/her manager by the end of the shift the day before leave is desired. Leave will be granted on a first come, first served basis. In some cases where submittals are made at the same time and only one Employee is allowed off due to the need to meet customer requirements, the request approval will be determined by seniority. In cases of emergency or illness, same day requests for vacation leave must be made to the Employee's manager for approval prior to the Employee's scheduled start time.

Section 11.6 - VACATION PAYOUT Any unused earned vacation will be paid upon termination of employment regardless of the reason for termination.

SECTION 11.7 - VACATION SCHEDULING Earned vacation may be taken in one (1) hour increments or longer increments with prior approval from the supervisor. Generally, in order for the Company to meet its contractual obligations to the Government, no more than 10% of the employees within a section will be scheduled at the same time and vacation requests are subject to approval by the supervisor. Vacation requests will be honored on a first come, first served basis with job classification seniority being the tie breaker.

SECTION 11.8 - VACATION PAYOUT IN CASE OF LAYOFF Employees who are laid off will be paid unused vacation hours with their final paycheck.

ARTICLE 12 - LEAVES OF ABSENCE

SECTION 12.1 - BEREAVEMENT Bereavement - When death occurs in an Employee's immediate family (spouse, mother, father, mother-in-law, father-in-law, son, daughter, brother or sister, brother-in-law, sister-in-law, step-father, step-mother, step-children, step-brother or step-sister, grandfather, grandmother and grandchildren), an Employee upon request will be excused for up to three (3) consecutive days to include the day of the funeral. The Employee shall receive pay at his regular rate, provided it is established that he attended the funeral.

SECTION 12.2 - PERSONAL/SICK LEAVE The Company will provide each employee, who has completed their probationary period, with five (5) sick / personal days per year (3.33/ month). Employees may accrue up to eighty (80) hours of sick / personal time. Personal and sick days allotted each employee, and the administration thereof, shall be in accordance with Company Policy at the NETL site.

SECTION 12.3 - JURY DUTY AND COURT WITNESS ABSENCE An employee with ninety (90) days or more of continuous service credit who is called for and who performs jury duty or who is subpoenaed to appear in court as a witness will be compensated by the Company for the

difference between payment received for such compulsory jury duty or compulsory court appearance and the payment the employee would have received for the straight time hours they thereby lose from a normal work schedule computed at the employee's established hourly base rate. However, when subpoenaed by a party other than the Company, the employee will not be compensated if the employee, the Company or the Union is a party in the case, or if the employee has any direct interest or financial interest in the case.

In order to be paid by the Company for such leave, the employee must submit to the Program Manager written proof of having served, and of the duration of such service.

SECTION 12.4 - MILITARY SERVICE Employees enlisting or entering the military service of the United States, pursuant to the provisions of the Selective Service Act of 1948, as amended, shall be granted all rights and privileges provided by the provisions of the Veteran's Re-employment Right's Act and any other applicable state or federal law that might apply.

SECTION 12.5 - COMPLIANCE WITH FMLA AND ADA The parties agree to abide by the provisions of the Family and Medical Leave Act of 1993, and the Americans with Disabilities Act.

ARTICLE 13 - MANAGEMENT RIGHTS

SECTION 13.1 - RETENTION OF MANAGEMENT PREROGATIVES Except as expressly modified or restricted by a specific provision of this Agreement, all statutory and inherent management rights, prerogatives and functions customarily and traditionally exercised by the Company to operate its business and direct its employees are hereby expressly reserved and vested exclusively by and to the Company. These rights include, but are not limited to, the right to determine prices of services, volumes of production and methods of financing, to drop or add a product line, to sell, merge, consolidate or lease the business, or any part thereof, to establish, revise or continue policies, practices, or procedures for the conduct of the business, and from time to time, to change or abolish such policies, practices or procedures; the right to determine, and from time to time redetermine, the number, location, relocation and types of its operations, and the methods, processes and materials to be employed, to discontinue processes or operations or to discontinue their performance by employees of the Company; to determine the number of hours per day and per week operations shall be carried on; to select and assign work to such employees in accordance with the requirements determined by Management; to require physical examination and substance abuse screening of employees in accordance with the Company's Substance Abuse Policy; to determine the existence or the lack of work, to make and enforce reasonable rules for maintenance of discipline or efficiency; to suspend, discharge or otherwise discipline employees for cause; and to take such measures as Management of the Company may determine to be necessary for the orderly, efficient and profitable operations of the business.

ARTICLE 14 - GENERAL PROVISIONS

SECTION 14.1 - REST BREAKS Unless precluded by operational requirements, it is the intention of the Company to provide Bargaining Unit employees two (2) fifteen minute rest breaks during a normal eight (8) hour shift, one (1) in each half of the shift. Rest breaks will occur two (2) hours after the start of the shift and two (2) hours after the end of the lunch break, unless operational requirement necessitate a postponement of the break. There shall not be set time for such rest breaks since their timing will depend upon operational requirements. Such rest breaks, for all employees, shall be included in the computation of time worked. Time spent traveling to or from a rest station shall be included in the fifteen (15) minute time period for rest breaks.

SECTION 14.2 - UNIFORMS The Company agrees to pay for a uniform service, providing at least five (5) uniform changes or coveralls and lab coats each week for all employees covered by this Agreement. It shall be a stipulation that work uniforms be worn during the employee's scheduled shift. EG&G will designate area and time for laundry exchanges. The Union agrees it shall be the employees' responsibility to replace lost or stolen uniforms.

SECTION 14.3 - COPY OF AGREEMENT The Company is to provide each member of the Bargaining Unit with one (1) bound copy of the Collective Bargaining Agreement.

SECTION 14.4 - The Company will reimburse employees all licenses required to perform their job, including:

- | | |
|--|-----------------------------|
| 1. Stationary Engineers License | 6. C.F.C. Certification |
| 2. Journeyman or Master Plumber License | 7. Wastewater Certification |
| 3. Journeyman or Master Electrical License | 8. Backflow Prevention |
| 4. Welding Certification | 9. N.I.U.I.P.E. |
| 5. Automotive ASE Certification | |

Costs associated with obtaining said licenses shall be paid in accordance with Article 4, Sec. 7.

SECTION 14.5 - SHOE ALLOWANCE The Company will reimburse employees or provide a voucher for appropriate safety shoes after presentation of an acceptable receipt to the Supervisor, up to one hundred dollars twenty-five (\$125.00) per year.

SECTION 14.6 - MEAL ALLOWANCE Employees will be entitled to a meal allowance of \$10.00 if they work ten (10) straight hours without notice the day prior to working.

SECTION 14.7 - CONTINUOUS PROCESS IMPROVEMENT (CPI) The Company retains its prerogative to continue its Continuous Process Improvement (CPI) program as it sees fit. The Union and its membership agree to cooperate fully in this program, which may include attending classes, seminars, and meetings, and participating in any other activity or providing any input that the Company determines to be in the employees' and/or the Company's best interest.

ARTICLE 15 - SAVINGS CLAUSE/CHANGE IN LAWS

Should any part hereof or any provision herein contained be rendered or declared invalid by reason of any existing legislation or by any decree of a court of competent jurisdiction, such invalidation of such part or portion of this Agreement, shall not invalidate the remaining portion hereof, and they shall remain in full force and effect. The parties further agree that this Agreement may be reopened by either party upon thirty (30) days written notice only for negotiation and agreement regarding the provisions invalidated.

In the event that an agreement regarding the provisions invalidated cannot be reached, the contract, less provisions invalidated will continue in force without change until the expiration of the Agreement.

ARTICLE 16 - BULLETIN BOARDS

The Company will provide appropriate space on Company bulletin boards for the posting of Union notices that have been properly approved for posting by the Company Personnel or Program Manager. Such approval shall not be unreasonably denied.

ARTICLE 17 - SAFETY

17.1 - **SAFE WORK PLACE** The Company will comply with all applicable health and safety laws and regulations and the Union and all employees agree to cooperate toward the objective of eliminating accidents and health hazards. The Company will continue to make reasonable provisions for the safety and health of its employees during the hours of their employment. The Union agrees that the Company may terminate any employee covered by this Agreement who intentionally exposes him/herself or any individual to unsafe acts which could result in serious bodily harm. All employees must immediately report any work-related injury, no matter how slight, to his/her immediate supervisor.

SECTION 17.2 - QUARTERLY SAFETY MEETINGS The Company and the Union will cooperate in the investigation and elimination of hazardous conditions and the improvement of the safety record. The Company will hold quarterly Safety Meetings with representatives of the Union. The Company shall establish a Safety Committee. The Committee to consist of the Company Safety Manager, one (1) Bargaining Unit employee from each trade with a maximum of five (5) and one (1) Management Representative.

SECTION 17.3 - FREQUENCY OF MEETINGS The Company agrees to provide a minimum of four (4) safety meetings per year.

SECTION 17.4 - ADHERANCE TO POLICY The Company and the Union will follow the NETL Environmental Health and Safety Program.

ARTICLE 18 - NEW EQUIPMENT

In the event the Employer introduces new equipment or devices which substitute for present equipment being operated or maintained by any employee within the Bargaining Unit, the Company agrees to train Bargaining Unit employees on such equipment to the fullest extent possible. The number selection of employees and manner to be trained will be determined by the Company.

ARTICLE 19 - SUCCESSORSHIP

The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties thereto, and to their successors and assigns, except as may otherwise be provided by applicable law or federal regulations.

ARTICLE 20 - APPRENTICESHIP

SECTION 20.1 - COMPANY'S DISCRETION This Article is intended to provide a means for the job and classroom training to produce qualified and competent employees, and may be implemented at the Company's sole discretion.

SECTION 20.2 - SUPERVISION OF APPRENTICE The apprentice will be provided with on the job training under the supervision of a (journeyman) and at no time be required to work a shift without the Company's supervision.

SECTION 20.3 - ANNUAL REVIEW This Article shall be subject to review annually and may be modified if both parties agree, otherwise it shall remain in full force and effect for the duration of this Agreement.

SECTION 20.4 - REQUIREMENTS The apprentice shall be required to successfully complete one (1) of the following six (6) courses each six (6) months in order to progress on the wage scale.

- | | |
|-------------------------------|---------------------------------|
| 1. Basic Electricity | 4. Instrumentation and Controls |
| 2. Refrigeration I | 5. Refrigeration II |
| 3. Steam and Boiler Mechanics | 6. Energy Management |

SECTION 20.5 - The apprentice shall receive the following percentage of the classification into which they are hired. The apprenticeship is limited to Group 1,2,3, or 4 listed in Exhibit "B"

<u>MONTHS OF SERVICE</u>	<u>PERCENTAGE OF THE RATE</u>	<u>EDUCATION REQUIREMENT</u>
STARTING RATE:	65%	0
6 Months	70%	One Course
12 Months	75%	One Additional Course
18 Months	80%	One Additional Course
24 Months	85%	One Additional Course
30 Months	90%	One Additional Course
36 Months	95%	One Additional Course

SECTION 20.6 - PERMANENT POSITION The apprentice shall remain at the 95% rate until a permanent position is open.

SECTION 20.7 - LICENSE The apprentice must obtain a City of Pittsburgh Stationary Engineers License prior to a permanent assignment.

SECTION 20.8 - MAXIMUM NUMBER The maximum number of apprentices shall not exceed one (1) apprentice per seven (7) journeymen.

SECTION 20.9 - PERFORMANCE The apprentice shall be subject to review each six (6) months. If performance standards are not met as determined by the Company, the apprentice may be subject to discipline up to and including discharge.

ARTICLE 21 - EDUCATION TRUST FUND

The Employer agrees to pay six cents (\$.06) per hour to the International Union of Operating Engineers, Local 95 Training Fund ("Fund") for all hours paid for all employees covered by this Collective Bargaining Agreement. The Employer shall submit a report listing all hours worked for all eligible employees and submit such report, along with contributions by the 15th of the month following the month in which the employees worked. The Employer agrees to be bound by rules and procedures established from time to time by the Trustees of the Fund and by the Agreement and Declaration of Trust governing the Fund. Upon the failure of the Employer to make the required reports or payments to the Fund or its designated agent, the Union and/or the Board of Trustees of the Fund may, in their sole discretion, bring an appropriate action in court of competent jurisdiction to enforce the filing of such reports and the payment of all contributions due and to collect such interest, reasonable counsel fees, costs of suit and payroll audit expense to which the Fund is entitled under the Fund's rules and procedures or the provisions of law.

ARTICLE 22 - STEWARD TRAINING

One (1) shop steward shall be entitled to a leave of one (1) day each calendar year from the Employer for Shop Steward's Training and Education. The Union must notify the Employer at least three (3) weeks in advance thereof. The Steward must, upon returning from the leave, present the Employer with written evidence from the Union that the Steward has used the leave for the purpose of which the leave was intended.

ARTICLE 23 - CENTRAL PENSION FUND

SECTION 23.1 - PENSION CONTRIBUTION Effective January 1, 2004, the Company shall contribute \$2.90 for all hours paid for each eligible employee into the Central Pension Fund. Effective January 1, 2005, the contribution will increase to \$3.05. Effective January 1, 2006, the contribution will increase to \$3.25. Effective January 1, 2007, the contribution will increase to \$3.45. Payments are to be forwarded to the International Union of Operating Engineers and Participating Employers, 4115 Chesapeake Street, N.W., Washington, D.C., 20016, to provide for the pension under the terms and conditions of that fund for employees covered hereunder.

SECTION 23.2 - EMPLOYEE AWARD FEE SHARE Bargaining unit members will receive the Employee Award Fee in accordance with Company Policy. The employer will contribute the employee's share amount to the Central Pension Fund in accordance with Central Pension Fund guidelines. The Company will furnish the Union and the Pension Fund an itemized list of contributions.

SECTION 23.3 - 401K SAVINGS PLAN The Company will provide bargaining unit employees with a payroll withholding option for a 401K Savings Plan that will be deducted each pay period and promptly forwarded to the account administrator. There will be no Company match in this account and the Union agrees to hold the Employer harmless against any liability that incurred as a result of the Company's action, inaction, or omission with respect to this section of the Agreement.

SECTION 23.4 - HOLD HARMLESS The Union agrees to indemnify the Company and hold the Company harmless should the Company incur any liability beyond that provided in Article 23 of this Agreement by virtue of the Company's participation in the Central Pension Fund or 401K Savings Plan. The parties recognize that this provision shall not be construed to apply to the Company's obligation to contribute to the Central Pension Fund, nor any obligation to pay liquidated damages, interest charges or other remedies available to the Fund in the event the Company is delinquent in making payment of the contributions due per Article 23.

It is understood that Bargaining Unit members are excluded from the Company's 401K Plan.

ARTICLE 24 - NO STRIKE - NO LOCKOUTS

During the term of this Agreement or any extension of this Agreement, the Company shall not lockout the employees covered by this Agreement; and no strike for any reason, whether or not contemplated by the parties at the time of this contract, shall be in any way, directly or indirectly caused, sanctioned, engaged in, instigated, lead, authorized, assisted, encouraged, ratified or condoned by the Union or of its members, its officers, agents, representatives, stewards or committeemen; nor shall they call, ratify, or engage in any strike, picketing, sympathy strike or protest of Union conduct or any other third party conduct or participate in informational picketing, area standards picketing or handbilling on or adjacent to the premises of the Company.

There shall be no slowdown or any other interference with the production or stoppage of work, nor shall they publicize that the Company is unfair or that there is a dispute between the Company and

any other labor organization; or prevent or attempt to prevent the access of persons to the Company's said premises, equipment or products for any reason whatsoever.

In the event of a breach of this no strike commitment, the Union shall immediately instruct the involved employees that their conduct is in violation of the contract, and that they may be disciplined up to and including discharge by the Company.

ARTICLE 25 - PART-TIME/TEMPORARY EMPLOYEES

SECTION 25.1 - BENEFITS PRORATA Part-time employees will receive a pro-rata of benefits based on their percentage of time worked as regular full-time forty (40) hours per week, unless otherwise stipulated.

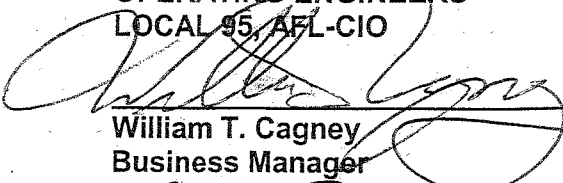
SECTION 25.2 - PAY IN LIEU OF BENEFITS Health & Welfare Cash in Lieu Of, will be provided to part-time employees.

ARTICLE 26 - TERMINATION

This Agreement shall continue in full force and effect until June 30, 2007, from the effective date and thereafter from year to year unless either party shall give at least sixty (60) days prior notice before any expiration date of this Agreement to the other party of its desire to modify or change this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their representatives as of the day and year first written below.

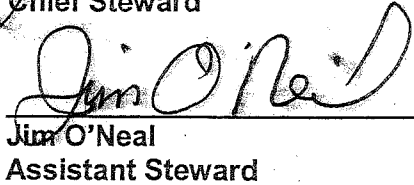
**INTERNATIONAL UNION OF
OPERATING ENGINEERS
LOCAL 95, AFL-CIO**



William T. Cagney
Business Manager

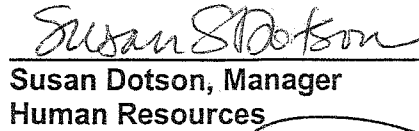


Jack Barli
Chief Steward

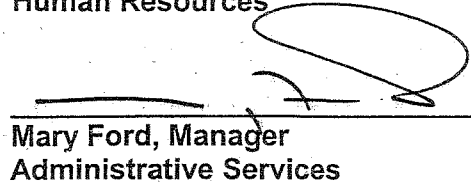


Jim O'Neal
Assistant Steward

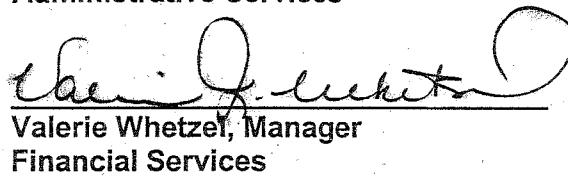
EG&G TECHNICAL SERVICES



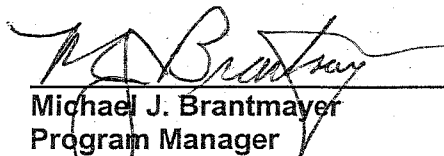
Susan Dotson, Manager
Human Resources



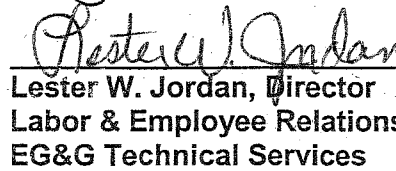
Mary Ford, Manager
Administrative Services



Valerie Whetzel, Manager
Financial Services



Michael J. Brantmayer
Program Manager



Lester W. Jordan, Director
Labor & Employee Relations
EG&G Technical Services

Date: 8/22/03

Date: 8/22/03

APPENDIX "A"

AUTHORIZATION FOR UNION DUES CHECK-OFF

ASSIGNMENT TO, AND AUTHORIZATION TO DEDUCT AND PAY UNION DUES TO INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 95, AFL-CIO.

Employer

Dear Payroll Clerk:

You are hereby authorized and directed for the duration of the Agreement, effective , between the Employer and the Union, to deduct from earnings and pay over to the Union, monthly dues, permit fees, or initiation fees as set by the Union. You are hereby authorized to deduct such dues from my earnings, payable the first pay of each month. In the event of insufficient earnings in the appropriate pay period, it shall be my responsibility to pay my dues directly to the Union.

This authorization shall remain in effect until revoked by me, and shall be irrevocable for a period of one (1) year from the date appearing above (or until the expiration of the present Agreement between the Employer and the Union, whichever is sooner), at which time it may be revoked by written notice by Registered Mail, given by me to the Employer and the Union, or any time during the period of five (5) days prior to the expiration of the one (1) year period (or five (5) days prior to the expiration of the present Agreement, whichever is sooner). If no such notice is given, this authorization shall be irrevocable for successive periods of one (1) year thereafter, or for the term of any succeeding Collective Bargaining Agreement between the Employer and the Union, whichever period is shorter, with the same privilege of revocation at the end of each such period.

Employee's Signature

Please Print Your Name

NOTE: One copy to the Employer and one copy to the Union.

APPENDIX "B"

WAGES AND CLASSIFICATIONS

Classifications:

Wages of the following classifications will be paid as follows, unless hired as an apprentice:

Classification	9/1/2003	8/1/2004	7/1/2005	7/1/2006
Auto Mechanics, Electricians, Electronic Technicians, HVAC Mechanics, HVAC Control Systems Mechanics, Pipefitters/Plumbers, Welders, Operator Mechanics,				
a) Stationary Engineers, & Carpenters	\$ 21.62	\$ 22.27	\$ 22.92	\$ 23.57
b) Maintenance Mechanics	\$ 20.86	\$ 21.51	\$ 22.16	\$ 22.81
c) Truck Drivers	\$ 18.87	\$ 19.52	\$ 20.17	\$ 20.82
d) Warehouse Specialist 1	\$ 17.35	\$ 18.00	\$ 18.65	\$ 19.30
e) Warehouse Specialist 2	\$ 18.00	\$ 18.65	\$ 19.30	\$ 19.95
f) Unit Clerk, Sr.	\$ 12.50	\$ 13.15	\$ 13.80	\$ 14.45
g) Unit Secretary	\$ 18.56	\$ 19.21	\$ 19.86	\$ 20.51

Lead employees will be paid one dollar (\$1.00) per hour above the journeyman's wage rate. Effective September 1, 2003, Lead employees will be paid six percent (6%) above the journeyman's wage rate. Effective July 1, 2005, Lead employees will be paid seven percent (7%) above the journeyman's wage rate.